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House of Representatives

The House was not in session today. Its next meeting will be held on Friday, August 1, 2003, at 4 p.m.

Senate

WEDNESDAY, JULY 30, 2003

(Legislative day of Monday, July 21, 2003)

COMMERCIAL AIRLINE HIJACKINGS

Mr. NELSON of Florida. Madam President, I have been trying to find the appropriate wrinkle in this important debate on the Energy bill to share with the Senate something that I heard on the radio this morning that almost caused me to drive off the road.

Given the fact that we have, over the last couple of weeks, just gone through and passed an important bill with regard to the Department of Homeland Defense, given the fact that former Senators Warren Rudman and Gary Hart have compiled a major report continuing to warn us that we are dangerously unprepared to prevent and respond to a catastrophic terrorist attack in the U.S., and given the fact that we are all, every day, reminded of the war on terror and how we are going to protect ourselves, something I heard on the radio this morning makes me wonder that we must not be listening.

According to intelligence reports made public yesterday, terrorists may be plotting suicide missions by hijacking commercial airliners, most likely in the United States, but clearly it could be anywhere in the world. Such a plot is detailed in a memo from our own Transportation Security Administration. I want to quote from it:

> The plan may involve the use of five-man teams, each of which would attempt to seize control of a commercial aircraft either shortly after takeoff or shortly before landing at a chosen airport. This type of operation would preclude the need for flight-trained hijackers.

Madam President, the threat that we face from terrorist organizations is still with us ever since we were rudely awakened on September 11. And interestingly, at the same time that we are informed of these potential new terrorist plots, the Transportation Security Administration, in a shocking disclosure that I heard on the radio today, reportedly intends to cancel air marshals on some of our most vulnerable commercial flights.

And if that is not enough, they are reportedly also cutting back on the training for new air marshals. In the wake of these reports, the agency says it has every available air marshal deployed right now and additional resources are being directed to this critical program. I certainly hope so.

The air marshal program was instituted as the front line of defense against would-be hijackers. Just knowing there is someone trained and armed who is usually sitting in the first-class section if somebody is trying to bust forward into the cockpit is a great comfort. What is the reasoning behind these reported cuts I heard on the radio that almost caused me to run off the road? It is that the Transportation Security Administration does not want to pay for the hotel rooms for the air marshals for overnight stays.

What price do we pay for security? That is almost like saying, while we are at it, we are going to get rid of the x-ray machines in security lines at the airports because we want to save on electricity, which, of course, is a ridiculous argument.

The Transportation Security Administration, according to the news reports, says it is trying to save $104 million. That might be a laudable goal, but I suggest we ought to start looking at the $8 million program that has already been spent in the Pentagon that has recently come to the fore and has caused such a flap. That is the program that would allow people to gamble on on the likelihood of terrorist attacks and assassinations, on which we have all joined in mutual disgust—that there was such a program.

Now having been denied that program, it will not continue, said the Deputy Secretary of Defense in testimony yesterday before the Senate Foreign Relations Committee, and yet that was an $8 million program.

I have been waiting all day to say—and I thank the Senators for their indulgence—that when it comes to the defense of our citizens, we cannot afford to cut corners. If we do, we will have forgotten the lessons of September 11. I hope the radio report I heard this morning that they are seriously considering cutting back on the air marshals program is not true. Clearly, let's not forget the lessons of September 11.

I thank the Chair.

BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through July 28, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is above the budget resolution by $1.833 billion in budget authority and by $2.985 billion in outlays in 2003. Current level for revenues is $1 million below the budget resolution in 2003.

Since my last report, dated July 3, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues: the Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29), the Welfare Reform Extension Act of 2003 (P.L. 108–40), and the Burmese Freedom and Democracy Act (P.L. 108–61).

I ask unanimous consent to print a cover letter and attached tables in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 29, 2003.

Hon. DON NICKLES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached tables show the effect of Congressional action on the 2003 budget and are current through July 28, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

Since my last report, dated June 2, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues: the Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 106–29), the Welfare Reform Extension Act of 2003 (P.L. 108–40), and the Burmese Freedom and Democracy Act (P.L. 108–61). The effects of these new laws are identified in Table 2.

Sincerely,

ROBERT A. SUNSHINE
(for Douglas Holtz-Eakin, Director).

Attachments.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2003, AS OF JULY 28, 2003

[In billions of dollars]

	Budget resolution	Current level [1]	Current level over/under (-) resolution
On-Budget:			
Budget Authority	1,874.0	1,875.8	1.8
Outlays	1,826.1	1,829.1	3.0
Revenues	1,310.3	1,310.3	(2)
Off-Budget:			
Social Security Outlays	366.3	366.3	0
Social Security Revenues	531.6	531.6	0

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

[2] Less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2003, AS OF JULY 28, 2003

[In millions of dollars]

	Budget Authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a.	n.a.	1,359,834
Permanents and other spending legislation	1,013,810	977,842	n.a.
Appropriation legislation	1,133,856	1,160,341	n.a.
Offsetting receipts	−369,104	−369,106	n.a.
Total, enacted in previous sessions	1,778,562	1,769,077	1,359,834
Enacted this session:			
Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11)	79,190	42,024	2
Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18)	3,479	3,479	0
Gila River Indian Community Judgment Fund Distribution Act of 2003 (P.L. 108–22)	1	1	0
Unemployment Compensation Amendments of 2003 (P.L. 108–26)	3,165	3,165	0
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27)	11,347	11,347	−49,489
Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29)	0	0	(2)
Welfare Reform Extension Act of 2003 (P.L. 108–40)	64	26	0
Burmese Freedom and Democracy Act (P.L. 108–61)	0	0	−1
Total	97,246	60,042	−49,488
Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	0	0	n.a.
Total Current Level [1]	1,875,808	1,829,119	1,310,346
Total Budget Resolution [1]	1,873,975	1,826,134	1,310,347
Current Level Over Budget Resolution	1,833	2,985	n.a.
Current Level Under Budget Resolution	n.a.	n.a.	1

[1] Excludes administrative expenses of the Social Security Administration, which are off-budget.
[2] Less than $500,000.

Source: Congressional Budget Office.
Note: n.a.=not applicable; P.L.=Public Law.

HONORING OUR ARMED FORCES

Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to Private First Class Wilfredo Perez, Jr., United States Army, of Norwalk, CT. Private Perez's loyalty, patriotism, and selflessness has served to further the legacy of our great Nation's principles of freedom and justice. His service to our Nation is an example of the powerful spirit that permeates American history. His country, his family, his Army, his brothers-in-arms, and his friends from home will keenly miss Private Perez.

A mortarman in the 1st Battalion, 67th Armor Regiment, 4th Infantry Division, PVT Perez and members of his unit were guarding a hospital where wounded comrades were being treated. In a contemptible and cowardly act, a grenade was lobbed from the upper floors of the hospital, killing PVT Perez and two other gallant soldiers.

PVT Perez, or ''Junior,'' as his family called him, was an outgoing and charming person, well liked and remembered fondly by both staff and classmates of Norwalk High School as someone who had found focus and was pursuing his dreams. He cared about his family, and had a propensity for the simple things in life, like playing golf with his dad, working on his car or skiing. He worked with his dad as a remodeling contractor prior to going into the Army and his family had high hopes for him as he started to plan for his future.

I am both proud and grateful that our military is made up of young men and women whose values are exemplified by PVT Perez's service to the United States Army and his country. PVT Perez was a messenger of high justice and idealism in the best tradition of American principles and patriotism.

I join a grateful Nation in extending my heartfelt condolences to his family. Thank you for sharing this outstanding soldier with us. His country, his Army, his brothers-in-arms and his friends at home will keenly miss PVT Perez. You may be justifiably proud of his contributions to a noble cause and a people in need.

ANTHONY G. FREEMAN

Mr. HATCH. Mr. President, at the end of this week, Anthony G. Freeman will leave the post of Director of the

Washington Office of the International Labor Organization, or ILO, after almost a decade serving this specialized agency of the United Nations in its liaison with the executive and federal branches of the U.S. Government. These last 9 years spent in this important role follow his 33-year career as a U.S. Foreign Service Officer.

In that career, Mr. Freeman represented our country all over the world: in Valencia, Spain and Rome, Italy; in Buenos Aires, Sao Paulo and La Paz. From 1983 to 1992, he served as Coordinator for International Labor Affairs and the Agency for International Development. In that capacity, he was Special Assistant to three Secretaries of State.

Tony Freeman's professional focus has been advancing the role of freedom of labor around the world, promoting the dignity and safety of workers wherever they toiled. He was a labor specialist who served as labor officer in many of his posts around the world. This experience was developed over three decades, culminating in his last assignment at the State Department as Deputy Assistant Secretary of State for Democracy, Human Rights and Labor. No one understands better than Tony Freeman that true democracy cannot exist without human rights and neither exist without the freedom of the working man and woman.

Some may not be aware of the importance that American labor has played in U.S. foreign policy through the decades. Some may not appreciate the role that the American worker has played in building alliances with workers around the world, conveying and supporting traditions of freedom—freedom to work and to organize and to be free of oppression—that are an essential aspect of American society. American unions, working through the State Department and working independently, have done great work advancing freedom around the planet, and continue to do so today.

American unions were some of the greatest forces fighting communism during the cold war. The great Irving Brown, who I am pleased to say became my mentor and friend early in my career, when he introduced me to a fledgling Polish union named Solidarity, made his reputation immediately after World War II, when he worked tirelessly with Italian and French labor movements to prevent those nations from succumbing to Soviet influence.

Lane Kirkland, the president of the AFL–CIO from 1979–1995, was a staunch anti-communist who played an important role in defending Solidarity in its early years. I was happy to work with these great men. I come from the working class. I worked as a lather to support my young family while I went to school, and I am proud to this day that I was a union member. It was easy and natural for me to work with other anti-communists from the labor movement to help defeat Soviet tyranny. In later years, Lane Kirkland would say to me, ''Orrin, if only your domestic policy was as good as your foreign policy.'' ''Well, Lane,'' I would retort, ''I could pay you the same compliment!''

After 33 years working labor issues at the Department of State, Tony Freeman accepted the position of Director of the Washington Office of the International Labor Organization in late 1994. I first worked closely with Tony in 1995 and 1996, when a misguided congressional initiative threatened to defund U.S. participation in the ILO. It was a time when the ILO needed to make itself relevant to U.S. audiences, particularly Congress. Irving Brown's legacy with the ILO, when we all worked together to fight Soviet communism, was a great historical achievement, but that did not move policy-makers in Washington searching for new roles for international organizations in the post-Cold War era.

I joined with the late senator from New York, Daniel Patrick Moynihan, who, incidentally, did his doctoral dissertation on the ILO, to defend continued U.S. support for this organization. Supporters of the ILO came to our offices, including representatives from the Labor Department, unions and U.S. businesses. The beauty and strength of the ILO is that it is the only tripartite international organization of its type in the world, where workers and employers from all member nations join to address labor questions alongside their governments. We made our case that the ILO's relevance in an era of expanding trade and globalization, as well as spreading transnational challenges like child labor exploitation, was greater than ever.

And we prevailed, and the U.S. continues to play a role in that important body. All of the coordination to preserve that role was organized by Tony Freeman, and today I want to express my personal gratitude for that important work in 1996.

Tony's efforts did not peak then, and he spent the following years raising the ILO's visibility, and its new missions, before new audiences in the U.S. He developed closer ties between the ILO and human rights groups in the U.S. He drew their attention to the basic human right of working people around the world to have a voice in the workplace, and to the work of the ILO to free people trapped in slavery and bondage, including the forced laborers in Burma. He strengthened the common bond between the ILO and organizations and policy makers fighting to end abusive child labor and saw large increases in U.S. funding for the ILO's child labor programs. In addition, Tony Freeman worked tirelessly to gain U.S. ratification of ILO conventions, and, during his tenure at the ILO, he made a signal contribution to the efforts that led to U.S. ratification of Convention No. 176 on Safety and Health in Mines in 2001.

I understand that Tony will be teaching in Washington in the coming years, as well continuing to offer his lifetime of experience and counsel. I am relieved to hear this, because we still need Tony Freeman's experience. He has lived a great life of service to the working man and woman, across all borders, and he has served the American public well. Today, I wish to honor the work of Tony Freeman all these years. I thank him for his 33 years in the State Department. I thank him for the critical leadership he provided the International Labor Organization. I thank him for putting up with all my Irving Brown stories. I thank him for his friendship. Most of all, I wish to thank Tony Freeman for his service to his country.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Portland, OR. On November 13, 1988, Mulugeta Seraw was savagely beaten to death by three white supremacists. Seraw had been visiting with two other Ethiopian males and was on his way home when he was attacked. Three members of the East Side White Pride jumped out of their car and beat 27-year-old Seraw to death with steel baseball bats.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

POSTWAR IRAQ

Mr. EDWARDS. Mr. President, President Bush did the right thing today by taking personal responsibility for the inclusion of misleading intelligence information in this year's State of the Union. But he has yet to turn his full attention to the more urgent matter at hand, winning the peace in Iraq.

To finish the fight and help build a free Iraq, President Bush must create a new national and international consensus for the benefit of our Nation's security, the future of the Middle East and the well-being of America's fighting men and women.

A new consensus is only possible, however, if the administration is honest enough to admit what is not working in Iraq and courageous enough to design a new approach that will.

The President must acknowledge a plain truth that everybody knows. This war is not over, and his administration declared a premature victory. Our military did a superb job toppling Saddam;

now they need the support, the resources, and the right troops to defeat the significant pockets of guerilla opposition that remain.

Unfortunately, unless we adjust our course, the management of postwar Iraq may well be viewed by history as the most consequential mismanagement of an international crisis by any U.S. administration since Vietnam.

Notwithstanding the deaths of Qusai and Odai Hussein, the joint U.S.-UK mission is in deep trouble. Nine months ago, I called for the administration to enlist NATO in comprehensive planning for postwar Iraq. What we are seeing now is the costs of failing to plan and refusing to internationalize our approach.

The departure of Saddam Hussein from power is an opportunity to change the course of history in the Middle East. That is one reason I supported and celebrated Iraq's liberation. It could have been, should have been, and still might prove a victory for people everywhere who respect human rights, cherish freedom, seek to halt the spread of weapons of mass destruction, and believe that peace between Arabs and Israel is both achievable and essential.

To succeed, we will need all the help we can get—from NATO and other allies, the U.N., and friends within the Arab and Muslim communities. The President apparently believes that we can succeed largely on our own.

The American people are starving for some straight talk. There is no reason except failed Presidential leadership that 90 percent of the foreign troops in Iraq are American. As commander in chief, he should be able to assure the families of our Armed Forces in Iraq that absolutely everything is being done to help them achieve their mission and come home safely and soon. He could not honestly provide such an assurance today.

Our troops won't get the help or protection they need unless the administration offers to share authority and responsibility for reconstruction efforts in Iraq. The President should not let past disagreements or misguided ideology stand in the way. The administration has little patience for diplomacy, so they argue that a U.N. framework means a loss of American control.

That is simply untrue. Like we did in Kosovo, we should ask the U.N. to provide a mandate for a coalition-led force that will work in consultation with, but not under the control of, the U.N. civilian administration. That will preserve the absolutely essential American control of our forces, but create a framework in which many nations can participate comfortably.

The Bush administration must level with the world and with the American people. A new consensus must be built on the truth. Winning the peace in Iraq will require many months, probably several years. It will cost tens of billions of dollars more than can be accounted for by Iraqi oil revenues. It will entail grave, ongoing risks to our Armed Forces. But it is a necessary, even noble, mission in which every law-abiding and freedom-loving country has a stake, and to which each should be invited to contribute not as a favor to America, but as a gift to our common future.

EXECUTIVE NOMINEES TO DOJ

Mr. GRASSLEY. Mr. President, I rise today to state that I object to proceeding to the consideration of two executive nominees to the Department of Justice. The first nominee is Mr. Christopher A. Wray, who is nominated to be the assistant attorney general of the criminal division at the Department of Justice. The second nominee to which I object is Mr. Jack Landman Goldsmith III, who is nominated to be assistant attorney general, office of legal counsel at the Department of Justice.

I have placed holds on these individuals because I have numerous outstanding issues that have yet to be resolved by the Department of Justice. More specifically, I have several outstanding written requests before the Department of Justice. Some of these requests are more than 6 months overdue. In addition, I am presently working with the Department of Justice to overcome a number of procedural issues directly affecting my ability, as a member of the Judiciary Committee to, among other things, conduct oversight of the Department of Justice, and the Federal Bureau of Investigations.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS BILL

Mr. HATCH. Mr. President, I rise in support of the Fiscal Year 2004 Department of Homeland Security appropriations bill. As chairman of the Senate Judiciary Committee, I want to congratulate the members of the new Appropriations Subcommittee on successfully completing the first annual appropriations bill providing funding for the new Department of Homeland Security.

Just as the Department of Homeland Security has made momentous progress in protecting our citizens while simultaneously creating a new government agency, the members of the Homeland Security Subcommittee have moved expeditiously to recommend funding in a responsible manner. There is no bill more important to the citizens of Utah, and we recognize the committee's important efforts.

The bill's appropriation of $28.5 billion accomplishes many things. One of the most important is continued support of the Office for Domestic Preparedness. This office, which awards grants to State and local agencies to assist them in preparing our first responders, has had a 1,500 percent increase in funding since September 11, 2001. Today's recommendation of $3.6 billion will bring the total amount spent on first responder preparedness to $8.8 billion since that fateful day.

Our Nation's airports are infinitely more protected than they were just one year ago. The bill continues this important work by providing $4.5 billion for passenger and baggage screening and airport security. It also provides $4.9 billion for securing our borders. The bill funds the US VISIT system development with $380 million. This new system will allow our Nation to collect, maintain and share appropriate information in order to determine the eligibility of foreign citizens wishing to visit the United States.

I appreciate that the committee has decided not to earmark funding for specific Congressional requests and to leave these decisions to the appropriate agencies. The defense of our Nation and in particular the protection of our citizens will never be achieved by purely political decisions, but through diligent hard work and strategic planning.

However, I would like to bring to the Senate's attention a program that has already proven its effectiveness in protecting our citizens and was initiated by the Office for Domestic Preparedness. Last year, the Office for Domestic Preparedness asked Dugway Proving Ground to develop and teach a Ph.D driven chemical and biological emergency responder course. Dugway Proving Ground is our Nation's chemical and biological defense proving ground. The result of these classes has been an unparalleled success and the student responses were overwhelmingly positive. Participants in the class were unanimous in their praise and the Chief of the Chicago HAZMAT Unit categorized the program as ''one that all first responders should attend.'' A student commented further that ''This was the best use of time in my 25 year career.'' The courses focused on agent characteristics, sampling, protection, detection, decontamination and chem/bio production recognition, such as the difference between clandestine drug laboratories, industrial accidents or chemical/biological production capabilities. Students also learned to assess a situation in order to determine the proper course of action. Clearly, these first responder training courses at Dugway are a national resource and though the Committee did not recommend funding for individual programs, I hope that the Office for Domestic Preparedness will continue to sponsor this important program.

I congratulate the committee on its fine work and urge the Senate's approval of the bill.

CULTURAL BRIDGES

Mr. KENNEDY. Mr. President, next week 54 high school students from the Islamic and Arab world will arrive in the United States for a year of study under a new exchange program to help bridge the cultural divide between America and the Islamic and Arab nations of the world. Secretary Powell will welcome the students at a ceremony at the State Department on Wednesday, August 5.

An initial $10 million for the Cultural Bridges Program was approved last year by Congress for the coming academic year. I commend the State Department for moving so quickly to organize the program and bring the first group of high school students to the United States. By the end of the summer as the new academic year begins, 135 high school students will be here for a year of study in high schools in 23 States under the program.

The students are coming from many nations throughout the Islamic world—Egypt, Indonesia, Jordan, Kuwait, Lebanon, Nigeria, Pakistan, Syria, Tunisia, Turkey, and Yemen, and from the West Bank and the Gaza strip as well. Each student will live with an American host family, attend a local high school, learn first hand about our society and values, and enable our students to learn about them.

Officials in the State Department are already preparing their recruitment and outreach efforts for the 2004–2005 academic year, when they hope to double the size of the program. If all goes well, that number will double again in the following year.

The terrorist attacks on September 11 and the war in Iraq have brought into sharp focus the many negative images and perceptions of our Nation abroad. Many Muslims believe our country is at war with Islam, not terrorism. With nearly 1.5 billion people living in the Islamic world today, we ignore these pervasive anti-American sentiments at our peril.

If the United States is to win a genuine victory in the war against terrorism, we must respond on many levels. We must ensure that our defenses are strong, our intelligence is accurate, and our borders are secure. But we must also do all we can to dispel the disturbing trend of anti-American rhetoric and beliefs. An effective way to do so is to engage Islamic peoples in the realm of values and ideas.

In a May 3, 2002 speech to the World Affairs Council in California, Deputy Secretary of Defense Paul Wolfowitz spoke of the need to strengthen voices of moderation in the Islamic world and to bridge the ''dangerous gap'' between that world and the West. There is ''no time for delay,'' he said.

As we have seen in Afghanistan, Pakistan, and the Middle East, some individuals and factions and even governments have supported terrorist organizations, while others have condemned terrorism and pledged to help the United States in combating it. By reaching out in friendship to those who oppose terrorism we can reduce the breeding grounds for terrorism and begin to eliminate the sentiments that terrorist recruiters exploit.

One of the most effective ways to engage the Islamic world is through educational exchange programs, which promote people-to-people contacts between Americans and other peoples.

Exchange programs help to build strong personal relationships and combat the misperceptions about the United States that threaten our security. Unfortunately, exchanges between the Islamic world and the United States are very limited today. Of the more than 500,000 foreign students in the United States, less than 5 percent are from the Arab Middle East.

There are many benefits in reaching out to students while they are young and open-minded. Today's high school students are tomorrow's leaders. Working with them now can improve their attitudes about our country and build future relationships based on trust and understanding. As Secretary of State Colin Powell said in his August 2001 statement on International Education Week: ''I can think of no more valuable asset to our country than the friendship of future world leaders who have been educated here.''

What makes the Cultural Bridges Program unique is that it enables high school students from other lands to obtain firsthand knowledge of our country, our way of life, and our people. Our Government sponsors many exchange programs for professionals, educators, journalists and academics, but, until now, there has been no Federal program to bring high school students from the Islamic world to the United States.

After September 11, many Muslim countries condemned the terrorist attacks and pledged to help the United States fight terrorism. But in the wake of the war in Iraq, anti-American sentiment is on the rise again.

A June 2003 poll by the Pew Charitable Trust found strong public support for Osama bin Laden's views in Arab countries whose governments are friendly to the United States. According to the poll, 55 percent of those in Jordan, 58 percent of those in Indonesia, 45 percent of those in Pakistan, and 49 percent of those in Morocco said they had confidence in Osama bin Laden to ''do the right thing regarding world affairs,'' and so did 71 percent of those in the areas controlled by the Palestinian Authority.

Our military action in Iraq has led to widespread fears throughout the region that we will launch other aggressive action. Majorities of those interviewed in Indonesia, Nigeria, Pakistan, Turkey, Lebanon, and Jordan worried that their country might be attacked by the United States. Even in Kuwait—where the public has a generally favorable view of the United States—53 percent expressed concern that the United States could someday pose a threat.

Especially disturbing is the finding of little support in the Islamic world for the war against terrorism—23 percent in Indonesia, 16 percent in Pakistan, 22 percent in Turkey, and 2 percent in Jordan and the Palestinian Authority. In Morocco, only one in 10 back the effort, while in Lebanon, 30 percent support the war. Only in Kuwait and Nigeria do majorities of the population now support the war against terrorism.

Clearly, we need to redouble our efforts to win the hearts and minds of peoples in the Arab and Muslim world, and change their negative perceptions about our country and values.

There are no better ambassadors for America than Americans themselves, and this new high school exchange program is an important way to begin reaching out more effectively to the next generation of leaders in that world.

Jordan's King Abdullah is an excellent example of what can be achieved. He is a friend of the United States, a partner in the war against terrorism, and a voice of tolerance and moderation in the Muslim world.

In 1977, as a young Jordanian, he enrolled in a high school in Massachusetts and later came to Washington to study at a university. He is living proof of the value of building bridges of understanding and tolerance with other cultures.

We need to create as many opportunities as possible for young people throughout the Islamic world to spend time in the United States and with our citizens, and we should begin to do so now. I have been delighted to work with Senators LUGAR, LEAHY, CHAFEE, DODD, HAGEL, SMITH, COCHRAN, BROWNBACK, JEFFORDS, DURBIN, and FEINGOLD on the Cultural Bridges Program, and I am hopeful that it marks a new beginning in our efforts to build forward lasting relationships with the future leaders in the Muslim world.

FY 2004 ENERGY AND WATER APPROPRIATIONS

SILVERY MINNOW PROVISION

Mr. BINGAMAN. Mr. President, I want to begin by commending my friend and colleague from New Mexico and the Chairman of both the Energy and Natural Resources Committee, and the Energy and Water Appropriations Subcommittee, for addressing a difficult situation on the Rio Grande River.

The provision at issue is Section 205 of the Energy and Water Appropriations bill and I would like to take this opportunity to engage Senator DOMENICI on that legislative language as part of the Senate's consideration of the bill.

We worked on Section 205 together, and it concerns water use in the Middle Rio Grande and compliance with the Endangered Species Act (ESA). More specifically, Section 205 addresses the June 12, 2003 decision of the Tenth Circuit Court of Appeals in the case of Rio Grande Silvery Minnow v. Keys, and does the following:

Recognizing that importing San Juan-Chama project water from the San Juan River basin to the Rio Grande basin does not jeopardize endangered species in the Middle Rio Grande, Section 205(a) clarifies that the Bureau of Reclamation may not use discretion, if any, to unilaterally reduce or reallocate water to be delivered under San Juan-Chama project contracts for endangered species purposes in the Rio Grande River Basin.

Section 205(b) also expressly recognizes that compliance with the March 17, 2003 biological opinion concerning water operations in the Middle Rio Grande, as well as activities being conducted pursuant to P.L. 106–377, P.L. 107–66, and P.L. 108–7, constitute compliance with all ESA requirements as related to those actions, both federal and non-federal, that are incorporated as the proposed action in the biological opinion. Notwithstanding Section 205, the Secretary is to continue pursuing recovery of listed species in the Middle Rio Grande, including support for the Middle Rio Grande ESA collaborative program.

I believe we are in agreement on the effect of Section 205. Moreover, I think the legislation is an appropriate response to the Tenth Circuit's decision and strikes a proper balance by providing certainty for all water users in the Middle Rio Grande basin while still maintaining the policy that all water users have a shared interest and responsibility to comply with the requirements of the ESA. Given the benefits of this approach I would ask my colleague, as Chairman of Energy and Water Appropriations Subcommittee, to maintain this approach in the conference with the House of Representatives and to include this interpretive language as part of the conference report.

Mr. DOMENICI. I appreciate that my colleague and fellow New Mexican worked with me to help alleviate the current situation with the silvery minnow. I concur with his understanding of the language which is designed to narrowly address the silvery minnow situation in the Rio Grande. It is intended to prohibit the use of San Juan-Chama water in the Rio Grande for endangered species purposes and to implement the March 17, 2003 Biological Opinion. I also concur with his view of the benefits of Section 205 in general, and will strongly advocate for its retention in conference, as well as inclusion of this interpretive language in the conference report.

Mr. BINGAMAN. I thank the distinguished Chairman for his consideration and explanation of this important matter. I believe that this language offers hope for the minnow and protection for the people of New Mexico.

MAKAN DELRAHIM

Mr. HATCH. Mr. President, I would like to take a moment today to express in public my thanks and appreciation to the Judiciary Committee's Chief Counsel and Staff Director, Makan Delrahim. Makan's departure is a tremendous loss for the Senate and for me personally. But, we are fortunate that he will continue to serve our country in his new position in the Bush administration as Deputy Assistant Attorney General for the Justice Department's Antitrust Division.

Makan is, in my opinion, a fine example of a great American success story. Makan's family fled from Iran when he was eight years old, and he quickly learned English and immersed himself in American life.

After learning business fundamentals at his father's gas station, Makan unleashed his newfound American entrepreneurial spirit and pursued several successful business enterprises before receiving a bachelor of science in physiology from UCLA. Later, he earned a law degree from George Washington University and also a Master of Science in biotechnology from Johns Hopkins. On top of it all, he became a registered patent attorney.

Clearly, his wide range of abilities and interests explain in part why he has served the Judiciary Committee and the Congress so exceptionally well. He is a brilliant thinker with the rare ability to quickly grasp a wide variety of complex issues.

It was a stroke of good fortune for me when, back in 1995, Makan joined my Judiciary Committee health staff for a term as an intern. As an intern, Makan distinguished himself as an exceptional talent, and after spending a few years practicing law at the Patton, Boggs, I convinced him to come back to the Judiciary staff as counsel handling e-commerce, antitrust and emerging technologies policy. I was once again so impressed with his dedication and ability that in 2001, I asked Makan to serve as Chief Counsel and Staff Director for the Judiciary Committee.

As Chief Counsel, Makan has been my right hand, providing valuable counsel on all matters that come before the Committee. I am particularly proud of his leadership in the development and passage of Hart Scott Rodino reform, the TEACH Act, the PATRIOT Act and the PROTECT Act, to name just a few. He has proved himself to be a skillful negotiator with the ability to bring parties together on divisive issues. It is no wonder that Makan is widely respected on both sides of the aisle.

Makan has worked tirelessly and capably, and I am afraid that his office in the Dirksen Building has become his virtual home as he has worked late into the night and many weekends over these past years. If he had stayed in private law practice and worked these hours, he would probably be a billionaire by now.

As Staff Director, Makan has demonstrated the extraordinary ability to find the greatest strengths in each staff member and to foster those strengths. And I am especially proud of Makan for helping me recruit a brilliant and impeccably qualified staff, and in doing so, bringing an unprecedented level of diversity to the Committee.

We will miss Makan's charismatic style and his ready sense of humor. And, we will miss his extraordinary ability to multitask. He is the only person I know who is capable of carrying on an intelligent conversation while simultaneously checking his email and talking on his cell phone.

Since Makan won't be here to ignore my advice anymore, let me offer it once again: He should get married. And, on a serious note, Makan has not only been a trusted adviser, he has been a friend. He has made us proud and we will miss him.

ADDITIONAL STATEMENTS

HONORING MONICA AND BERNARD BENNING

• Mr. BURNS. Mr. President, today I rise in honor of Monica Conter Benning and Bernard Floyd Benning, Barney, on the celebration of their 61st wedding anniversary on August 20, 2003. Monica and Barney are the only surviving couple of the Pearl Harbor attack who both were in the immediate Pearl Harbor area at the time of the bombing. As the courtship between these two officers evolved in the setting of World War II, their experiences during the attack on America, December 7, 1941, are an important part of American history.

Barney, a college ROTC 2nd Lt. from Niles, MI, was ordered to active duty to Hawaii in May 1941. Barney joined an anti-aircraft battery in Fort Kamehameha at the entrance of the Pearl Harbor channel.

Army nurse 2nd Lt. Monica Conter of Apalachicola, FL served at Walter Reed General Hospital in 1940–1941, and was the official model for the Army Nurse Corps Recruiting Program. Monica was later assigned to the new Hickam Field Hospital, adjacent to Pearl Harbor and separate by a lone chain link fence. Monica is the only nurse still living today who was on duty at Hickam Field Hospital at the time of the attack. During the attack on December 7th, a bomb fell on the hospital lawn about 60 feet from the building, leaving a large crater. A banyon tree sapling was planted in the crater several days after the attack. Today, beside the huge tree is a granite monument and plaque, honoring Monica's service as an Army nurse on duty that fateful day.

Monica and Barney Benning first met on a prearranged ''blind date'' in September 1941; the beginning of a lifetime together. Their courtship continued with regularity until that ''Day of Infamy,'' December 7, 1941—the first terrorist attack on America. The following Wednesday, when Barney appeared at Hickam Hospital in a dirty, wrinkled uniform, it was quite an emotional moment when they found each other alive.

''Off Duty'' time was infrequent and often they were miles apart and usually on some kind of alert status until the American victory at the Battle of Midway in May.

They wed on August 20, 1942, in the temporarily camouflaged Hickam Field Chapel; the original chapel was destroyed on December 7.

On August 20, 2003, they will celebrate their 61st wedding anniversary. I congratulate and praise this couple, members of our Greatest Generation, for serving America to protect our precious democracy. I applaud your bravery and dedication to preserving freedom for all Americans.

Monica and Barney currently reside in Fort Myers, FL. They have two sons, Phil Benning and Gregory Benning and a daughter, Veronica Benning, as well as two grandchildren, Melanie and Lauren Benning.●

OREGON HEALTH CARE HERO

● Mr. SMITH. Mr. President, Vail Blackwell Horton is a self-described ''man with a vision on a mission.'' Vail was born 25 years ago without legs and has since dedicated himself to enabling people with disabilities to become active members of their communities.

As the founder and CEO of Ken Mobility, Vail and his team of outstanding employees are developing new technologies and services to empower people with disabilities. Innovative assistive devices like the ''Keen Krutch'' and ''Sure Foot Forearm'' are engineered to significantly reduce the onset of painful conditions and ailments like osteoarthritis. Vail's products have helped improve the quality of life for many with disabilities. One client raved: ''I can't find the words to tell you what your invention has done for my life . . . I am not as embarrassed to walk with my crutch because I think it is a real looker. It has given me a badly needed boost to keep on fighting the fight to live and walk in this world.''

In addition to Keen Mobility, Vail founded Incight, a nonprofit organization that focuses on employment and education issues for people with disabilities. Appearing frequently as a motivational speaker, Vail aims to ''educate and encourage individuals to acknowledge their handicap, but not let it dictate their life.''

Vail's tireless spirit serves as an inspiration to us all. Today, I am proud to honor Vail Blackwell Horton as a Health Care Hero for the great State of Oregon.●

WINCHESTER CELEBRATES ITS 250TH BIRTHDAY

● Mr. GREGG. Mr. President, I rise today in honor of Winchester, New Hampshire. This great American community is celebrating the 250th anniversary of its founding, and I am proud to recognize this historic event.

Over 4,000 people call themselves citizens of Winchester. From the town's incorporation in 1753 through today, they have had an enormous impact on the economic and cultural development of not only New Hampshire but our country as well. Winchester has long been a center for commerce and manufacturing. Companies like the Ashuelot Manufacturing Corporation, Thayer & Turner's Woolen Mill and Robertson Brothers's Paper Mill were early leaders in powering the expansion of the United States. The A.C. Lawrence Leather Company is another notable example of this proud heritage. It made thousands of boots and shoes which our troops needed during World War II. I know there are many residents still living in town who used to work at AC Lawrence at this time and I want to thank them for the vital contributions they made to supporting our troops during that conflict.

The town's people have made significant contributions to the security of our country in many other ways. Colonel Samuel Ashley commanded a regiment of soldiers in the American Revolution. Major General Leonard Wood, another Winchester native, became Chief of Staff for the Army just prior to the start of World War I. He was one of the first men to see the war in Europe as a challenge to the American military establishment. In response, he led a crusade for a larger and better prepared armed force. This effort involved an intensive speaking tour throughout the United States and the launching of summer training camps for college students in Pennsylvania, Vermont, North Carolina and Michigan. One can certainly conclude that our victory in World War I was possible in large part because of General Wood's vision.

This town has also played an important role in the political history of New Hampshire. Francis Parnell Murphy, elected Governor of the State in 1937, was born here. Today, Tom Magee, Gus Ruth, Bill Kelly, Ken Berthiaume and Brian Moser, the current members of the Board of Selectmen, are carrying on this tradition of public service.

These people, and so many others, highlight the rich history for which the people of Winchester can justifiably be proud. As they celebrate the Town's 250th birthday, I am honored to salute this great community.●

ONE SMALL SLICE OF THE AMERICAN DREAM

● Mr. LEVIN. Mr. President, on June 10, 1903, 26-year-old Giovanni Castellano married 21-year-old Santa Basile in Milazzo, Italy. Less than 2 months later, on July 24, the newlyweds boarded the S.S. *Lahn* steamship headed for the United States of America. On August 5, 1903, Giovanni and Santa Castellano set foot on American soil at Ellis Island, starting a new chapter in the American dream.

The story of the Castellano family in many ways reflects the typical American immigrant experience. Giovanni and Santa settled in New York City and presided over the development of a large family. The first generation born in America included Joseph, Jenny, Vincent, Florence, Faye, Steve, and Anthony. The members of this generation in turn had families of their own, and so on. As the new century gets underway, the fourth generation of American Castellanos begins grade school.

The first generation of the Castellano family tended to marry other Italian Americans, the likes of Carizzo, Cambria, and Fidele. Reflecting U.S. immigration patterns, there was the occasional McElligot. Over time, the genealogy of the Castellano family came to reflect the diversity of America. Ullmann, Cinotti, Burk, Garcia, Anchustegui, and Pray are just some of the names that may be found on the family tree now.

Many members of the Castellano family have stayed in New York but others have moved throughout the United States. One hundred years of history have brought the Castellano family literally from sea to shining sea—from New York, Maryland and Washington, DC, to Colorado, New Mexico, and California.

While many in the first generation of the Castellano family received only a grade school education, succeeding generations have graduated from community colleges, State universities, private colleges, and the Ivy League. The Castellano family has spawned teachers, stockbrokers, delivery drivers, restaurateurs, soldiers, lawyers, doctors, dentists, bricklayers, and other professions; some have worked in business, some have worked in public service. They have served their country in both peace and in World War II, Vietnam, and Somalia.

Next week is the 100th anniversary of Giovanni and Santa's entry into the United States through Ellis Island—the beginning of the American dream for one family. Congratulations to the Castellano family; may the dream go on for all Americans.●

RECOGNITION FOR NATIONAL HEALTH CENTER WEEK 2003

● Mr. JOHNSON. Mr. President, I recognize the National Health Center Week that will be celebrated from August 10 to 16, 2003. Health centers provide services to over 10 million people living in underserved areas through the United States, with about 50 percent of the users being from rural areas such as South Dakota.

Community health centers have a longstanding history of providing quality primary health care services to medically underserved populations. Providing care to one of every 12 rural Americans and tending to needs of the increasing number of uninsured individuals, health centers provide medical attention to those who would otherwise lack access to health care. A unique aspect of community health centers allows them to individualize their center to meet the specific needs of a particular community. By partnering with community organizations, schools and businesses, health centers are able to best meet the health care needs of individuals in each respective community.

I want to pay special recognition to the Community HealthCare Association in South Dakota, and all of the staff at the association for the fine work they do on behalf of South Dakota. Furthermore, I want to commend all of the dedicated health care professionals in the health centers throughout South Dakota who work day in and day out devoting their lives to delivering critical health care to those most in need.

At this time, there are 25 community health centers serving individuals across my State and I am working with my colleagues in Congress and the administration to greatly increase the number of these centers nationwide. As a member of the Senate Appropriations Committee, I am pleased to have recently voted in committee to increase funding by $122 million over last year's funding, for a total of $1.62 billion for the Nation's community health centers next year. I will continue to work with my colleagues to see that we are able to double funding for these medical centers by 2006.

Once again, it gives me great pleasure to recognize the National Health Care Center Week on behalf of the South Dakota Community HealthCare Association and the many thousands of South Dakotans who may continue to benefit through this important program.●

TRIBUTE TO COLONEL CHARLES J. FIALA, JR., COMMANDER, BALTIMORE ENGINEER DISTRICT, U.S. ARMY CORPS OF ENGINEERS

● Mr. SARBANES. Mr. President, I want to pay tribute today to Colonel Charles Fiala, Commander and District Engineer of the Baltimore District, U.S. Army Corps of Engineers. COL Fiala is retiring after a distinguished 25-year career in the U.S. Army, and I would like to take this opportunity to congratulate him and commend him for his many years of service to our Nation.

Chuck Fiala graduated from West Point in 1978 and has served in numerous staff and command positions here in the United States and abroad. Beginning as combat engineer platoon leader with the 194th Armored Brigade in Fort Knox, KY he quickly rose through the ranks. Among other assignments he commanded C Company, 11th Engineer Battalion at Fort Belvoir; served as Executive Officer in U.S. Army Headquarters Europe in Heidelberg, Germany; and worked in the Pentagon for the Office of the Chief of Staff and the Deputy Chief of Staff. During the course of his career, Chuck earned a master's degree in civil engineering from Purdue University and was also awarded a master's degree in National Security and Strategic Studies from the National War College.

I came to know COL Fiala 3 years ago when he was first selected as Commander and District Engineer of the Baltimore District, U.S. Army Corps of Engineers, and have had the privilege of working closely with him on a number of water resource, environmental restoration, and military construction initiatives in Maryland and the mid-Atlantic region. Chuck has continued the tradition of outstanding leadership that has been the hallmark of the Baltimore District. Under his leadership, numerous military construction and civil works projects were initiated or completed including the Baltimore Harbor Anchorages Project, the straightening of the Tolchester Channel ''S'' Turn, the improvements to the Brewerton Channel and the construction of military housing at Fort Meade, to name only a few. Similarly, he directed and oversaw several critical environmental restoration projects including the cleanup of Fort Detrick's chemical and biological waste landfill, the restoration of the north end of Assateague Island National Seashore, the Chesapeake Bay oyster recovery effort, and 10 habitat restoration sites in the Anacostia River.

During his 25-year career in the Army, COL Fiala repeatedly demonstrated exceptional abilities and dedication that have earned him recognition and acclaim by his peers. He has been the recipient of many awards and decorations including the Legion of Merit, the Meritorious Service Medal, the Army Commendation medal, and the Parachute Badge. His work ethic and principles of responsibility, reliability, and dedication will continue to serve as a standard for others who follow him as District Engineer.

It is my firm conviction that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens and country. Throughout his career Chuck Fiala has exemplified a steadfast commitment to meeting this demand.

I want to extend my personal congratulations and thanks for his hard work and dedication and wish him and his family the best of luck in the future.●

MONT VERNON CELEBRATES 227TH BIRTHDAY

● Mr. GREGG. Mr, President, I rise today in honor of Mont Vernon, NH. This year, while the United States observed the 227th anniversary of our independence, the citizens of Mont Vernon have been planning the celebration of the town's 200th birthday. It is therefore timely and appropriate that we recognize this quintessential American community.

From its first settlement in the early 1700s through today, Mont Vernon has represented all that is great about the United States. Although it may not share the industrial or commercial legacy of its sister cities of Nashua or Manchester, the town's impact on our country has been just as vital. This impact is best symbolized by the sacrifices the residents here have made in times of conflict. Fifty men from what was to become Mont Vernon served in the War of Independence; five of them lost their lives. During the Civil War, 35 men enlisted in the Union Army and, tragically, seven of them died. The whole community demonstrated their support for these soldiers and for the cause for which they were fighting by voting at a special town meeting to provide wages and outfits for those men who volunteered to serve.

The town's dedication to protecting the ideals of this country was also clear during both World War I and World War II. In the First World War, nine residents fought in that conflict. In the Second World War, twenty-three of them served including Mildred Coggin, Eleanor Carlton and Mary Holt Smith. These three women were nurses whose care of injured soldiers was critical to the war effort.

Of course, Mont Vernon continues to stand for those qualities which make New Hampshire such a special place to live: a dedication to public service and the spirit of volunteerism. The town's representatives to the New Hampshire General Court, Timothy Allen, Pam Coughlin and Margaret Hallyburton, are continuing in the path of the town's first elected official to that body, Major William Bradford. The members of the current Board of Selectmen, Mike Fimbel, John Koch and Peter Savage are honorably serving in the tradition the first Board of Selectmen, whose members included John Carlton, Joseph Langdell and Jacob Kendall, set in 1804.

So, on this the 200th anniversary of Mont Vernon, we salute its citizens and honor their accomplishments, their love of country and their overwhelming spirit of independence.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1490. A bill to eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes.

S. 1504. A bill to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological,

or nuclear agents that may be used in a terrorist attack against the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3481. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the voluntary national guidelines on ballast water management; to the Committee on Commerce, Science, and Transportation.

EC–3482. A communication from the Secretary of Transportation, transmitting, pursuant to law, a draft of proposed legislation entitled ''The Passenger Rail Investment Reform Act''; to the Committee on Commerce, Science, and Transportation.

EC–3483. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to funds for protection, control, and accounting of fissle materials in Russia; to the Committee on Energy and Natural Resources.

EC–3484. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the status of the Exxon and Stripper Well Oil Exchange Funds; to the Committee on Energy and Natural Resources.

EC–3485. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Four Vernal Pool Crustaceans and Eleven Vernal Pool Plants in California and Southern Oregon'' (RIN1018–AI26) received on July 28, 2003; to the Committee on Energy and Natural Resources.

EC–3486. A communication from the Assistant Secretary of the Army, Civil Works, transmitting, a report relative to the Little Calumet River Local Flood Control and Recreation Project; to the Committee on Environment and Public Works.

EC–3487. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, a report relative to Small Drinking Water Systems; to the Committee on Environment and Public Works.

EC–3488. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Control of Emission of Oxides of Nitrogen From Cement Kilns'' (FRL#7536–8) received on July 25, 2003; to the Committee on Environment and Public Works.

EC–3489. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Identification and Listing of Hazardous Waste Final Exclusion'' (FRL#7537–5) received on July 25, 2003; to the Committee on Environment and Public Works.

EC–3490. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards'' (FRL#7537–4) received on July 25, 2003; to the Committee on Environment and Public Works.

EC–3491. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled the ''New Freedom Initiative Medicaid Demonstrations Act of 2003''; to the Committee on Finance.

EC–3492. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Respiratory Therapy Study''; to the Committee on Finance.

EC–3493. A communication from the Regulations Coordinator, Center for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program: Third Party Liability Insurance Regulations'' (RIN0938–AM65) received on July 25, 2003; to the Committee on Finance.

EC–3494. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Note/Purchase Contract Units'' (Rev. Rul. 2003–97) received on July 28, 2003; to the Committee on Finance.

EC–3495. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, a draft of proposed legislation relative to the Foreign Relations Authorization Act; to the Committee on Foreign Relations.

EC–3496. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to the International Waters, Pacific Ocean; to the Committee on Foreign Relations.

EC–3497. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–3498. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license for the manufacture of significant military equipment abroad to Japan; to the Committee on Foreign Relations.

EC–3499. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment in the amount of $25,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–3500. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles and defense services in the amount of $50,000,000 or more to Brazil, Russia, Ukraine, and Norway; to the Committee on Foreign Relations.

EC–3501. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–3502. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Brazil; to the Committee on Foreign Relations.

EC–3503. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license for the manufacture of significant military equipment abroad to India; to the Committee on Foreign Relations.

EC–3504. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles sold commercially under contract in the amount of $100,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–3505. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to the International Waters, Pacific Ocean; to the Committee on Foreign Relations.

EC–3506. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Pacific Ocean/International Waters or Kourou, French Guiana; to the Committee on Foreign Relations.

EC–3507. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions list sold commercially under a contract in the amount of $1,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–3508. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–3509. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–3510. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–3511. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of

$50,000,000 or more to Israel and Singapore; to the Committee on Foreign Relations.

EC–3512. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to Russia; to the Committee on Foreign Relations.

EC–3513. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Japan; to the Committee on Foreign Relations.

EC–3514. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacture license for the manufacture of significant military equipment abroad or defense services in the amount of $50,000,000 or more to Taiwan; to the Committee on Foreign Relations.

EC–3515. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license for the manufacture of significant military equipment abroad to Sweden; to the Committee on Foreign Relations.

EC–3516. A communication from the Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, transmitting, pursuant to law, the report of a rule entitled ''Certificates for Certain Health Care Workers'' (RIN1615–AA10) received on July 25, 2003; to the Committee on the Judiciary.

EC–3517. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Appeals, transmitting, pursuant to law, the report of a rule entitled ''Board of Veterans' Appeals Title Change'' (RIN2900–AL15) received on July 28, 2003; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 1125. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes (Rept. No. 108–118).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Lawrence Mohr, Jr., of South Carolina, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2009.

Air Force nominations beginning Brigadier General Kenneth M. DeCuir and ending Brigadier General Mark A. Volcheff, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2003.

Air Force nomination of Col. Bruce E. Burda.

Air Force nomination of Lt. Gen. Teed M. Moseley.

Air Force nomination of Gen. Gregory S. Martin.

Air Force nomination of Gen. Richard B. Myers.

Air Force nomination of Maj. Gen. Roger A. Brady.

Air Force nomination of Lt. Gen. Richard E. Brown III.

Air Force nomination of Lt. Gen. Steven R. Polk.

Army nomination of Gen. Peter J. Schoomaker (Retired).

Army nomination of Lt. Gen. Bryan D. Brown.

Army nomination of Col. Charles S. Rodeheaver.

Army nomination of Brig. Gen. David T. Zabecki.

Marine Corps nomination of Gen. Peter Pace.

Marine Corps nomination of Maj. Gen. Robert M. Shea.

Navy nominations beginning Rear Adm. (lh) Roger T. Nolan and ending Read Adm. (lh) Robert O. Passmore, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 2003.

Navy nomination of Rear Adm. Kirkland H. Donald.

Navy nomination of Rear Adm. (lh) Louis V. Iasiello.

Navy nomination of Rear Adm. (Select) Eric T. Olson.

Navy nomination of Rear Adm. Gary Roughead.

Navy nomination of Vice Adm. James. C. Dawson, Jr.

Navy nomination of Rear Adm. Rodney P. Rempt.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of Patrice L. Pye.

Air Force nomination of *Rebekah F. Friday.

Air Force nomination of Dennis Hutson.

Army nominations beginning William R. Gladbach and ending Malcolm K. Wallace, Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 19, 2003.

Army nomination of Regina M. Curtis.

Army nomination of Nancy M. Prickett.

Army nominations beginning Stephen J. Demski and ending Joseph F. Maranto, which nominations were received by the Senate and appeared in the Congressional Record on June 26, 2003.

Army nominations beginning Andrew S. Kantner and ending Daniel A. Tanabe, which nominations were received by the Senate and appeared in the Congressional Record on June 26, 2003.

Army nominations beginning David A. Archer and ending Debra A. Spear, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Nathan E. Baker and ending Frederick V. Wright, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Lisa M* Anderson and ending James W* Turonis, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Brett T* Ackermann and ending Michael J* Zapor, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Adio Abdu and ending Ricardo M Young, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning David A Barr and ending Samuel R Young, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Wilfredo A. Colonmartines and ending Jeffery L. Lewis, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2003.

Army nominations beginning Thomas B. Howe and ending Michael J. Veasey, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2003.

Army nominations beginning James G. Lynch and ending Rafael A. Roldan, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2003.

Army nomination of Evan L. Williams II.

Marine Corps nomination of Thomas D. Gore.

Marine Corps nomination of Adam L. Musoff.

Marine Corps nomination of Jason K. Fettig.

Navy nominations beginning Chad F Acey and ending Frank A Shaul, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Conrad K Alejo and ending Carl B Weicksel, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Barbara M Burgett and ending Robert C Weitzman, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Robert J Allen and ending Harold E Williams, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Eric J Buch and ending Robin D Tyner, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Lee K Allred and ending Donald L Zwick, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Allan D Andrew and ending Johnny R Wolfe, Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Angela D Albergottie and ending Joseph B Spegelee, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Charles J Chan and ending Matthew A Webber, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Christopher A Adams and ending Richard J Zins, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Steven S Hartzell and ending Stanley D. Rhoades, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2003.

Navy nomination of James P. Driscoll.

By Ms. COLLINS for the Committee on Governmental Affairs.

*Joel David Kaplan, of Massachusetts, to be Deputy Director of the Office of Management and Budget.

*Joe D. Whitley, of Georgia, to be General Counsel, Department of Homeland Security.

*Penrose C. Albright, of Virginia, to be an Assistant Secretary of Homeland Security.

By Mr. GREGG for the Committee on Health, Education, Labor, and Pensions.

*Howard Radzely, of Maryland, to be Solicitor for the Department of Labor.

*Michael Young, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008.

*Thomasina V. Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2009.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CAMPBELL:

S. 1489. A bill to authorize the burial of Bob Hope at Arlington National Cemetery; to the Committee on Veterans' Affairs .

By Mr. MCCONNELL (for himself, Mrs. DOLE, Mr. BUNNING, Mr. HOLLINGS, Mr. EDWARDS, Mr. MILLER, Mr. FRIST, Mr. WARNER, Mr. ALLEN, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mr. BAYH):

S. 1490. A bill to eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes; read the first time.

By Mr. CORNYN:

S. 1491. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 1492. A bill to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Labor Management Relations Act, 1947 to provide special rules for Teamster plans relating to termination and funding; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS:

S. 1493. A bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States; to the Committee on Finance.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 1494. A bill to amend the Internal Revenue Code of 1986 to extend the special 5-year carryback of certain net operating losses to losses for 2003, 2004, and 2005; to the Committee on Finance.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 1495. A bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. HARKIN):

S. 1496. A bill to provide for the expansion and coordination of activities of the National Institutes of Health and the Centers for Disease Control and Prevention with respect to research and programs on cancer survivorship, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, and Mr. DURBIN):

S. 1497. A bill to amend the Communications Act of 1934 to revise and expand the lowest unit cost provision applicable to political campaign broadcasts, to establish commercial broadcasting station minimum airtime requirements for candidate-centered and issue-centered programming before primary and general elections, to establish a voucher system for the purchase of commercial broadcast airtime for political advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, Ms. LANDRIEU, and Mr. KERRY):

S. 1498. A bill to provide for the establishment of a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY:

S. 1499. A bill to adjust the boundaries of Green Mountain National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CONRAD (for himself, Mr. ROCKEFELLER, and Mr. DASCHLE):

S. 1500. A bill to amend the Internal Revenue Code of 1986 to modify the tax credit for holders of qualified zone academy bonds; to the Committee on Finance.

By Mr. MCCAIN (by request):

S. 1501. A bill to amend title 49, United States Code, to provide for stable, productive, and efficient passenger rail service in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1502. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1503. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to the Committee on Finance.

By Mr. GREGG (for himself and Mr. KENNEDY):

S. 1504. A bill to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States; read the first time.

By Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. BURNS, and Ms. SNOWE):

S. 1505. A bill to establish a National Passenger Rail Office, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN:

S. Res. 205. A resolution expressing the sense of the Senate that a commemorative postage stamp should be issued on the subject of autism awareness; to the Committee on Governmental Affairs.

By Mr. BROWNBACK (for himself and Mrs. DOLE):

S. Res. 206. A resolution honoring the memory of Dr. William R. (''Bill'') Bright and commending his life as an example to succeeding generations; considered and agreed to.

ADDITIONAL COSPONSORS

S. 52

At the request of Mr. WYDEN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 52, a bill to permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes.

S. 274

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 317

At the request of Mr. GREGG, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 317, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs for work and family, and for other purposes.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 451

At the request of Ms. SNOWE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 537

At the request of Mr. CRAPO, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 537, a bill to ensure the availability of spectrum to amateur radio operators.

S. 656

At the request of Mr. REED, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 835

At the request of Ms. LANDRIEU, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 835, a bill to amend the Higher Education Act of 1965 to provide student loan borrowers with a choice of lender for loan consolidation, to provide notice regarding loan consolidation, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 875

At the request of Mr. KERRY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 893

At the request of Mr. SANTORUM, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 894

At the request of Mr. WARNER, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 971

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 971, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1143

At the request of Mrs. HUTCHISON, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1190

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1190, a bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes.

S. 1252

At the request of Mr. DAYTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1252, a bill to provide benefits to domestic partners of Federal employees.

S. 1283

At the request of Mr. GRAHAM of Florida, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes.

S. 1296

At the request of Ms. MURKOWSKI, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1296, a bill to exempt seaplanes from certain transportation taxes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1331

At the request of Mr. SANTORUM, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1363

At the request of Mr. REID, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1363, a bill to prohibit the study or implementation of any plan to privatize, divest, or transfer any part of the mission, function, or responsibility of the National Park Service.

S. 1460

At the request of Mr. KENNEDY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1460, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S.J. RES. 17

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S.J. Res. 17, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an ''American Jewish History Month'', and for other purposes.

S. CON. RES. 40

At the request of Mr. HAGEL, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as ''National Purple Heart Recognition Day''.

S. RES. 30

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Virginia (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Louisiana (Mr.

BREAUX), the Senator from Kentucky (Mr. BUNNING), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Ohio (Mr. DEWINE), the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from Utah (Mr. HATCH), the Senator from Texas (Mrs. HUTCHISON), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Mr. LEVIN), the Senator from Mississippi (Mr. LOTT), the Senator from Indiana (Mr. LUGAR), the Senator from Georgia (Mr. MILLER), the Senator from Alabama (Mr. SESSIONS), the Senator from Missouri (Mr. TALENT), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 30, a resolution expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as ''National Historically Black Colleges and Universities Week''.

S. RES. 98

At the request of Mr. CAMPBELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 98, a resolution expressing the sense of the Senate that the President should designate the week of October 12, 2003, through October 18, 2003, as ''National Cystic Fibrosis Awareness Week''.

S. RES. 170

At the request of Mr. DODD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 170, a resolution designating the years 2004 and 2005 as ''Years of Foreign Language Study''.

S. RES. 201

At the request of Mr. SESSIONS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Res. 201, a resolution designating the month of September 2003 as ''National Prostate Cancer Awareness Month''.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 204

At the request of Mr. BIDEN, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. Res. 204, a resolution designating the week of November 9 through November 15, 2003, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

AMENDMENT NO. 1416

At the request of Mr. BROWNBACK, his name was added as a cosponsor of amendment No. 1416 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

AMENDMENT NO. 1416

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 1416 proposed to S. 14, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1489. A bill to authorize the burial of Bob Hope at Arlington National Cemetery; to the Committee on Veterans' Affairs.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the text of the ''Bob Hope Arlington Honors Act of 2003,'' legislation authorizing the burial of Bob Hope at Arlington National Cemetery, be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1489

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 ''Bob Hope Arlington Honors Act of 2003''.

SEC. 2. AUTHORIZATION OF BURIAL OF BOB HOPE AT ARLINGTON NATIONAL CEMETERY.

The Secretary of the Army shall permit the burial of Leslie Townes (Bob) Hope of California, an honorary veteran of the Armed Forces of the United States, in Arlington National Cemetery, Virginia, upon the request therefor by the family of Leslie Townes Hope.

By Mr. MCCONNELL (for himself, Mrs. DOLE, Mr. BUNNING, Mr. HOLLINGS, Mr. EDWARDS, Mr. MILLER, Mr. FRIST, Mr. WARNER, Mr. ALLEN, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mr. BAYH):

S. 1490. A bill to eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes, read the first time.

Mr. EDWARDS. Mr. President, the introduction of the Tobacco Market Transition Act is an important milestone for tens of thousands of farmers. I am proud to have been part of the bipartisan working group that crafted this bill.

For decades, thousands of farmers in my state have depended on their tobacco quotas. They made significant investments in equipment and land. They paid into the no-net cost assessment program knowing that the quota system they were locked into would provide for them. They didn't get rich—most of the farmers in my State will tell you that their tobacco profits allowed them to send their children to college or just pay the bills.

But that financial security has been eroded. The Federal quota is at an all-time low. In fact, just in the past five years tobacco farmers have seen their quotas cut in half. That same time has been particularly difficult for my farmers, who have had to adjust to the dwindling quota while losing their crops and in some cases their entire farms to three hurricanes, a massive ice storm and a severe drought.

It is time to end the Federal quota system. It is time to give these hard working men and women a chance to transition to other crops or to retire with dignity. And for those who want to continue to grow tobacco, we must end the antiquated quota system and give them a chance to compete with foreign producers just as if they were growing any other crop like corn or sweet potatoes.

Of course, this isn't just another crop. This is tobacco and the tobacco leaf is used to make addictive, deadly products. We must address that fact. I am certain that before the year is out, the Senate Health, Education and Labor Committee, of which I am a member, will consider relevant legislation to protect public health. I welcome that committee's efforts. But in the debate surrounding the tobacco industry, we cannot lose sight of the fact that thousands of honest, hard working people depend on the leaf for their economic livelihood.

People like Blythe and Gwendolyn Casey of Kinston, NC. Mr. and Ms. Casey began farming tobacco decades ago. They made a decent living doing what they loved. As the years passed, they increased their production and made substantial investments in equipment and regulation barns. They paid into the no-net cost assessment program and played by the rules. They never got rich, but they were confident their investments would allow them to one day retire and remain on their farm.

Through no fault of their own, they've watched the value of their quota essentially disappear. When they began farming, they never thought they would reach retirement age mired in debt. The Caseys, and thousands of tobacco farming families in eastern North Carolina face a bleak financial future unless Congress acts.

The Federal quota system has reached a crisis point and we must intervene. The Tobacco Market Transition Act is our best chance to stave off economic disaster for tens of thousands of farmers.

This bill represents a compromise literally years in the making. This bill is not perfect. But this bill could be the last hope for farmers.

Mr. ALEXANDER. Mr. President, I am proud to cosponsor the Tobacco Market Transition Act of 2003, which is a vital piece of legislation to farmers in Tennessee and other tobacco producing States. As our citizens and government respond to the dangers of cigarettes and tobacco, farmers and farm communities that have depended on this crop are contending with challenges greater than just the decrease in

demand. Tobacco growing quotas, the leasing of those quotas, and the Federal price support system have combined with decreasing demand to form the ''perfect storm'' to afflict tobacco farmers.

I grew up in east Tennessee, and small family tobacco farms were a part of the lifestyle and economic vitality in our region. Tobacco farmers are currently suffering because of government programs and declining demand for their crops. The number of tobacco farmers in Tennessee has decreased from more than 35,000 farms in 1980 to fewer than 15,000 today. Revenue from tobacco in Tennessee has declined by $25 million over the same period.

This bill will provide a short term bridge to tobacco growers and quota holders, and the communities in which they live. Tennesseans who own quotas will receive a fair transition away from lease income they have received. Growers will receive transition payments as well. The buyout would last over six years and mean roughly $2 billion to the family farmers, quota lease owners, and communities in Tennessee.

Tobacco farming will continue to be faced with challenges, but successful passage of this legislation will provide a safety net to farmers and their communities. I applaud the work of Senator MCCONNELL on this important legislation and will work with him and our other cosponsors to provide the transition our tobacco farming communities desperately need.

By Mr. CORNYN:

S. 1491. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

Mr. CORNYN. Mr. President, over the past few months, the Medicare debate has focused our attention on a range of issues related to the future of health care in America. Central to our debate has been how to pay for the dramatically rising costs of health care and whether we can afford a prescription drug benefit to treat the disease of an aging population.

The Medicare and Medicaid programs currently spend $84 billion annually on five major chronic diseases, diabetes, heart disease, depression, cancer and arthritis. We have discussed options for paying for the treatment of these diseases, but have spent far less time exploring ways to prevent them in the first place.

I believe that disease prevention and the promotion of healthier lifestyles offers us an excellent opportunity to begin reversing the steep rise in health care costs we are facing today. Public health experts unanimously agree that people who maintain active healthy lifestyles dramatically reduce their risk of contracting chronic diseases. A physically fit population results in a decrease in health care costs, reduced government spending, fewer illnesses and improved worker productivity.

Given the tremendous benefits exercise provides, I believe we have a duty to create as many incentives as possible to get Americans off the coach and up and moving. With this in mind, I have introduced the Workforce Health Improvement Program, WHIP Act. The WHIP Act mirrors similar legislation introduced by Rep. PAT TOOMEY, R–PA, in the House of Representatives and would allow for the favorable tax treatment of health club memberships as an employee benefit.

Specifically, it would clarify an employer's right to deduct the cost of subsidizing or providing health club benefits for their employees. In addition, this legislation would exclude the wellness benefit from being considered income for the employees, i.e., employer contributions to the cost of health club fees would not be taxable income for employees.

Current law already permits businesses to deduct the cost of on-site workout facilities, which are provided for the benefit of employees on a pretax basis. However, if a business wants, or needs, to outsource these health benefits, they and/or their employees are required to bear the full cost.

The WHIP Act would correct this inequity in the current tax code to the benefit of many smaller businesses and their employees. It also would be an important step in reversing the devastating health trend that our country is facing by promoting physical activity, reducing obesity and preventing disease.

According to the Surgeon General's ''Call to Action to Prevent disease Overweight and Obesity,'' published in 2001, there are 300,000 deaths a year in the United States that are associated with overweight and obesity. Repair physical activity reduces the risk of developing or dying from some of the leading causes of illness and death in the United States.

Further, physical activity can: reduce the risk of dying prematurely; reduce the risk of dying prematurely of heart disease; reduce the risk of developing diabetes; reduce the risk of developing high blood pressure; help reduce blood pressure in people who already have high blood pressure; reduce the risk of developing colon and other types of cancer; reduce feelings of depression and anxiety; help control weight; help build and maintain healthy bones, muscles, and joints; help older adults become stronger and better able to move about without falling; promote psychological well-being.

Public Health experts unanimously agree that active lifestyles result in decreased health care costs, reduced governmental spending, fewer illnesses, and improved worker productivity.

I ask you to join me in supporting this preventive health and fitness bill.

By Mr. CHAMBLISS:

S. 1492. A bill to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Labor Management Relations Act, 1947 to provide special rules for Teamster plans relating to termination and funding; to the Committee on Health, Education, Labor, and Pensions.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Multi-employer Pension Security Act of 2003. This bill will strengthen and protect the defined pension benefits of thousands of workers. These workers have no other choice than to participate in the pension fund that their employer offers. However, it is not just the employees who need these plans to be reformed, but many employers realize that to be fiducially responsible that these reforms need to be made as well.

Nearly 44 million working Americans participate in defined benefit pension plans. Of that amount, almost ten million people, approximately 25 percent of all those who have defined pensions, participate in multi-employer plans. Single-employer plans are completely managed under a different system. Although recent policy debate has focused primarily on single-employer plans, my reasoning in introducing this legislation today is to broaden the pension plan debate by dealing with the myriad of problems facing multi-employer pension plans.

This bill, the ''Multi-employer Pension Security Act,'' will provide millions of active and retired workers who participate in these plans with the long-term security of knowing their promised benefits will be funded and safeguarded. This reform legislation is necessary and long overdue.

The funding levels in single-employer pension plans have been greatly affected by stock market losses, a sluggish economy and record-low interest rates. These events have impacted multi-employer plans also. However, the issues affecting multi-employer plans are much broader than that. These plans operate under a fundamentally different structure. The main difference between single and multi-employer plans is that there is no minimum funding level required in multi-employer plans. Losses can mount until simply there is no more money and benefits cannot be paid to the participants in multi-employer pension plans. My bill will correct his deficiency in current law.

This proposed legislation would address the lack of adequate funding standards existing within the multi-employer pension plan system. Also hardworking employees who participate in these multi-employer pension funds do not currently have the guarantee of insurance. When a multi-employer pension plan is defunct or goes bankrupt, there is no Pension Benefit Guaranty Corporation (PBGC) to rely on—because multi-employer plans do not fall under the guise of the PBGC structure. My bill will address that and give the folks participating in a multi-employer plan the same governmental oversight as provided to participants of single-employer plans.

Again, I introduce the Multi-employer Pension Security Act today because we, as a nation, must tackle these issues now to prevent further deterioration of these plans and we must be willing to assure our constituents that their promised pensions are available to them as retirees currently and in the future. Single-employer plans must not be the only pension plan that Congress considers changes to because we are also responsible to the almost ten million Americans participating in multi-employer pension plans as well. I urge my colleagues to consider this legislation. We must engage in a discussion that will lead to positive changes in multi-employer pension plans now.

By Mr. CHAMBLISS:

S. 1493. A bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States; to the Committee on Finance.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Fair Tax Act of 2003. This bill will promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax.

The Fair Tax, commonly referred to as a national sales tax, is a necessary piece of tax reform that, should it pass, upon its inception would uproot our current unjust progressive tax code and replace it with a simpler, fairer one.

I believe our antiquated tax code, that was implemented in 1913, and has since been modified numerous times, is overly complicated and desperately in need of an overhaul. We are well beyond rectifying the unfairness in our current system by tinkering around the edges. All Americans are in dire need of unbiased sweeping tax reform—and the fair tax is just that.

The Fair Tax Act of 2003 would repeal the individual income tax, the corporate tax, capital gains taxes, all payroll taxes, the self-employment tax and the estate and gift taxes in lieu of a 23 percent tax on the final sale of all goods and services. The eradication of these taxes will not only bring about equality within our tax system, it will also bring about simplicity.

This bill will also provide for tax relief for business-to-business transactions. These transactions, including used product transactions which have already been taxed, are not subject to the sales tax, thereby abrogating any double taxation.

Social Security and Medicare benefits would remain untouched under the Fair Tax bill. There would be no financial reductions to either one of these vital programs. Instead, the source of the trust fund revenue for these two programs would be replaced simply by a sales tax revenue instead of a payroll tax revenue.

And lastly, under this bill, every American would receive a monthly rebate check equal to spending up to the Federal poverty level according to the Department of Health and Human Services guidelines. This rebate would ensure that no American pays taxes on the purchase of necessities.

The Fair Tax creates a fairer, simpler code that allows every American the freedom to determine his or her own priorities and opportunities.

Ronald Reagan once said, ''I believe we really can, however, say that God did give mankind virtually unlimited gifts to invent, produce and create. And for that reason alone, it would be wrong for governments to devise a tax structure or economic system that suppresses and denies those gifts.''

I couldn't agree more.

And as long as we continue to operate under our current skewed tax code, we will continue to suppress and deny these unlimited gifts to the American people who would otherwise thrive boundlessly under the Fair Tax.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 1494. A bill to amend the Internal Revenue Code of 1986 to extend the special 5-year carryback of certain net operating losses to losses for 2003, 2004, and 2005; to the Committee on Finance.

Mr. BUNNING. Mr. President, today, Senator CONRAD and I are introducing legislation that would greatly benefit out domestic economy. Our legislation would increase the cash flow of many struggling American companies, thus helping them hire and retain workers and fund capital investments.

The legislation involves the ''net operating loss'' (''NOL'') rules under the Internal Revenue Code. The NOL carryback and carryover rules are designed to allow taxpayers to smooth out swings in business income that result from business cycle fluctuations and unexpected financial losses.

Last year's economic stimulus bill, the ''Job Creation and Worker Assistance Act of 2002,'' allowed NOLs arising in 2001 and 2002 to be carried back five years, rather than two years, as otherwise would be provided under the tax law. The 2002 Act also removed a limitation that the corporate alternative minimum tax (''AMT'') unfairly places on these carrybacks. The 2002 Act thus gave taxpayers in many sectors of the economy an enhanced ability to increase their cash flow through refunds of income taxes paid in prior years.

Unfortunately, the same uncertain economic conditions that led to the enactment of last year's stimulus bill have continued. Many taxpayers are continuing to incur unexpected financial losses in 2003.

The legislation that we are introducing today would simply extend the 2002 Act's NOL carryback rules to cover NOLs arising in 2003 and to NOLs that may arise in 2004 and 2005.

I urge my colleagues to support this important legislation, which would give much needed relief to U.S. employers and would provide an additional jump start to our economy.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 1495. A bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce legislation with my colleague, Senator CONRAD, which will allow affiliated life and non-life insurance companies to file consolidated tax returns. The rules currently on the books do not allow such consolidation, for reasons that are outdated and no longer applicable.

In general, consolidated return provisions under current law were enacted so that the members of an affiliated group of corporations could file a single tax return. The right to file a ''consolidated'' return is generally available irrespective of the nature or variety of the businesses conducted by the affiliated corporations. The purpose behind consolidated returns is simply to tax a complete business entity rather than its component parts individually. Whether an enterprise's businesses are operated as divisions within one corporation or as subsidiary corporations with a common parent company, a business entity should generally be taxed as a single entity and be allowed to file its return accordingly.

Corporate groups that include life insurance companies, however, are denied the ability to file a single consolidated return until they have been affiliated for a least five years. Even after this five year period, they are subject to two additional limitations that do not apply to any other type of group: first, non-life insurance companies must be members of the affiliated group for five years before their losses may be used to offset life insurance company income, and second, non-life insurance affiliated losses, including current year losses and any carryover losses, that may offset life insurance company taxable income are limited to the lesser of 35 percent of life insurance company's taxable income or 35 percent of the non-life insurance company's losses.

There are no sound reasons to deny affiliated groups that include life insurance companies the same unrestricted ability to file consolidated returns that is available to other financial intermediaries, and corporations in general. Allowing the members of an affiliated group of corporations to file a consolidated return prevents the business enterprise's structure from obscuring the fact that the true gain or loss of the business enterprise is the aggregate of each of the members of the affiliated group. The limitations contained in present law are so clearly without policy justification that they should be repealed.

Our legislation will repeal the two five-year limitations for taxable years

beginning after this year, and it will phase out the 35 percent limitation over seven years. The staff of the Joint Committee on Taxation has recommended repeal of two of the three limitations addressed by my bill—on the grounds of needless complexity. The third limitation is, in effect, merely a minimum tax on life insurance company income. That limitation should have been repealed when the alternative minimum tax was enacted, and certainly has no place in the tax laws today.

We hope our colleagues will join us as cosponsors of this bipartisan, much-needed legislation.

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. HARKIN):

S. 1496. A bill to provide for the expansion and coordination of activities of the National Institutes of Health and the Centers for Disease Control and Prevention with respect to research and programs on cancer survivorship, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, today I would like to pay tribute to a great Texan and a great American, Lance Armstrong. Last weekend, Lance sailed to his fifth consecutive victory in the Tour de France. On the heels of his stunning victory, I am pleased to introduce the Cancer Survivorship Research and Quality of Life Act of 2003.

To some, Lance's victories might begin to seem routine, winning year after year after year. But when you dig beneath the surface, past the hype and drama of the Tour de France, you find that there's nothing routine about Lance Armstrong.

By now, nearly everyone knows that Lance is a cancer survivor. It has become common knowledge, not because Lance uses it as an excuse or to seek sympathy. We know it because Lance has used his megaphone as a sports hero to raise awareness of cancer research and survivorship. He has dedicated himself to helping others and turning his personal devastation into a legacy of hope for those afflicted with cancer. When he was diagnosed, he was given a 40 percent chance of living. His survival and amazing comeback have proved that cancer is not a death sentence.

Sixty-two percent of adults and 77 percent of children diagnosed with cancer this year will be alive 5 years from now. There are more than 9 million cancer survivors living today. These numbers are improving because of advances in detection and early diagnosis, effective treatments, and healthier lifestyles by survivors and those at risk.

We must continue our commitment to research so fewer people will experience cancer.

The bill I am introducing today expands cancer research by authorizing the Office of Cancer Survivorship within the National Cancer Institutes to study the long- and short-term physical psychological, social and economic effects of cancer. Research has shown that cancer survivors are often susceptible to other diseases. Expanding on this research will allow scientists and physicians to improve patients' quality of life and help prevent other diseases and disabilities.

Additionally, the bill expands the Centers for Disease Control programs to improve cancer survivorship. For example, the CDC will track the status of survivors to identify what health risks they face and the successful course of treatment they have utilized. Other programs will demonstrate how to prevent and control cancer, especially in medically underserved populations.

This legislation has the support of CDC and NCI. It also has the support of Lance Armstrong.

I have been privileged to meet with Lance on several occasions. He has never boasted of his athletic feats or touted his ability to master the world's toughest bicycle race. He speaks with passion of the Lance Armstrong Foundation and the work it does on behalf of cancer survivors and their families. When he mounts his bike each summer it is a symbol of hope for cancer survivors the world over.

This year's Tour de France was no exception. Many predicted Lance's defeat and he had to overcome illness, fatigue and crashes to reach the finish line. But he never gave up. The trademark dedication and perseverance that characterize him as an athlete and a survivor kicked in once again. He pedaled to victory over the course of 3 weeks, more than 2,100 miles and 84 hours of cycling, winning with a lead of 1 minute and 1 second.

It was truly a stunning end to a remarkable race.

The record-tying fifth consecutive win places Lance among cycling's elite. Only four others can claim five-time winner of the Tour de France among their accolades. Only one other man has won it consecutively. If Lance wins the yellow jersey next year, it would be a world record. But whether he breaks the record or not, he is a hero to all of us.

I ask my colleagues to join me in congratulating Lance Armstrong on a great victory and signing on as cosponsors to this important legislation to help carry his message of survivorship to the Nation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows;

S. 1496

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 ''Cancer Survivorship Research and Quality of Life Act of 2003''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) There are more than 9,600,000 individuals in the United States today who are cancer survivors (living with, through, and beyond cancer).

(2) 61 percent of cancer survivors are 65 years of age and older.

(3) 62 percent of adults diagnosed with cancer today will be alive 5 years from now.

(4) In 1960, 4 percent of children with cancer survived more than 5 years.

(5) 77 percent of children (age 0 through 14) diagnosed with cancer today will be living five years from now.

(6) Three out of every four American families will have at least one family member diagnosed with cancer.

(7) 24 percent of adults with cancer are parents who have a child 18 years or younger living in the home.

(8) One of every four deaths in the United States is from cancer. In 2002, 556,500 Americans will die of cancer—more than 1,500 people a day.

(9) The annual cost of cancer in the United States is $180,000,000,000 in direct and indirect costs.

(10) In fiscal year 2001 the National Institutes of Health invested $38,000,000 in survivorship—less than $4.25 per survivor.

SEC. 3. CANCER CONTROL PROGRAMS.

Section 412 of the Public Health Service Act (42 U.S.C. 285a–1) is amended—

(1) in the first sentence, by inserting '', for survivorship,'' after ''treatment of cancer'';

(2) in paragraph (1)(B), by striking ''cancer patients'' and all that follows and inserting the following: ''cancer patients, families of cancer patients, and cancer survivors, and''; and

(3) in paragraph (3), by inserting ''and concerning cancer survivorship programs,'' after ''control of cancer''.

SEC. 4. EXPANSION AND COORDINATION OF ACTIVITIES OF NATIONAL INSTITUTES OF HEALTH WITH RESPECT TO CANCER SURVIVORSHIP RESEARCH.

(a) IN GENERAL.—

(1) TECHNICAL AMENDMENT.—Section 3 of Public Law 107–172 (116 Stat. 541) is amended by striking ''section 419C'' and inserting ''section 417C''.

(2) NEW SECTION.—Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.), as amended pursuant to paragraph (1) of this subsection, is amended by adding at the end the following:

''SEC. 417E. EXPANSION AND COORDINATION OF ACTIVITIES WITH RESPECT TO CANCER SURVIVORSHIP RESEARCH.

''(a) IN GENERAL.—

''(1) EXPANSION OF ACTIVITIES.—The Director of NIH shall expand and coordinate the activities of the National Institutes of Health with respect to cancer survivorship research.

''(2) ADMINISTRATION OF PROGRAM; COLLABORATION AMONG AGENCIES.—The Director of NIH shall carry out this section acting through the Director of the National Cancer Institute and in collaboration with any other agencies that the Director determines appropriate.

''(b) OFFICE ON SURVIVORSHIP.—

''(1) IN GENERAL.—The Director of NIH shall establish an Office on Cancer Survivorship within the National Cancer Institute through which the activities under subsection (a)(1) shall be implemented and directed.

''(2) ASSOCIATE DIRECTOR FOR CANCER SURVIVORSHIP; APPOINTMENT; FUNCTION.—There shall be in the National Cancer Institute an Associate Director for Cancer Survivorship to coordinate and promote the programs in the Institute concerning cancer survivorship

research. The Associate Director shall be appointed by the Director of the Institute from among individuals who, because of their professional training or experience, are equipped to address the breadth of needs associated with cancer survivorship.''.

(b) FUNDING.—Section 417B of the Public Health Service Act (42 U.S.C. 285a–8) is amended by adding at the end the following:

''(e) OFFICE ON CANCER SURVIVORSHIP.—Of the amounts appropriated for the National Cancer Institute for a fiscal year, the Director of the Institute shall reserve an amount for the Office of Cancer Survivorship under section 417E(b)(1).''.

SEC. 5. EXPANSION OF CDC COMPREHENSIVE CANCER PROGRAMS; PROGRAMS TO IMPROVE CANCER SURVIVORSHIP.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting through the Director of the Centers for Disease Control and Prevention, shall—

(1) expand and update the National Comprehensive Cancer Control Program;

(2) assist States, territories, tribal organizations, and the District of Columbia in developing and implementing a cancer prevention and control program so that each entity will have an active plan in place and so that States, territories, tribal organizations, and the District of Columbia will conduct activities to prevent and control cancer and so that disparities in specific populations will be addressed;

(3) establish programs that demonstrate how to prevent and control cancer and improve access to and the quality of cancer care among racial and ethnic minority and medically underserved populations with disproportionate incidence of or death from cancer;

(4) promote cancer education, prevention, and early detection of cancer; and

(5) award grants to public and nonprofit organizations for cancer control and prevention.

(b) CERTAIN STUDIES AND PROGRAMS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in collaboration with the Director of the Office of Cancer Survivorship within the National Cancer Institute, shall study the unique health challenges associated with cancer survivorship and carry out projects and interventions to improve the long-term health status of cancer survivors. Such projects shall be carried out directly and through the awards of grants or contracts.

(2) CERTAIN ACTIVITIES.—Activities under paragraph (1) include—

(A) the expansion, in collaboration with the Surveillance, Epidemiology, and End Results Program (SEER) at the National Cancer Institute and with the Agency for Healthcare Research and Quality, of current cancer surveillance systems to track the health status of cancer survivors and determine whether cancer survivors are at-risk for other chronic and disabling conditions;

(B) assess the unique public health challenges associated with cancer survivorship; and

(C) the development and implementation of a national public health cancer survivorship action plan, in partnership with health organizations focused on cancer survivorship, to be carried out in coordination with the State-based comprehensive cancer control program of the Centers for Disease Control and Prevention, in collaboration with the Office of Cancer Survivorship at the National Cancer Institute, and in consultation with other appropriate entities, to support and advance cancer survivorship through—

(i) surveillance and research;

(ii) communication, education, and training;

(iii) program, policies, and infrastructure; and

(iv) access to quality care and services.

(c) COORDINATION OF ACTIVITIES.—The Secretary shall assure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service.

(d) REPORT TO CONGRESS.—Not later than October 1, 2004, the Secretary shall submit to the Congress a report describing the results of the evaluation under subsection (a), and as applicable, the strategies developed under such subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

SEC. 6. MONITORING AND EVALUATING QUALITY CANCER CARE AND CANCER SURVIVORSHIP.

(a) IN GENERAL.—Part M of title III of the Public Health Service Act (42 U.S.C. 280e et seq.) is amended by inserting after section 399E the following:

''SEC. 399E–1. MONITORING AND EVALUATING QUALITY CANCER CARE AND CANCER SURVIVORSHIP.

''(a) IN GENERAL.—The Secretary shall make grants to eligible entities for the purpose of enabling such entities to monitor and evaluate quality cancer care, develop information concerning quality cancer care, and monitor cancer survivorship. The Secretary shall carry out this section jointly through the Director of the Centers for Disease Control and Prevention and the Director of the National Cancer Institute.

''(b) ELIGIBLE ENTITIES.—For purposes of this section, an entity is an eligible entity for a fiscal year if the entity—

''(1) operates a statewide cancer registry with funds from a grant made under section 399B for such fiscal year;

''(2) is certified by the North American Association of Central Cancer Registries;

''(3) has personnel scientifically qualified to conduct population-based epidemiology or analyze health services or outcomes research; and

''(4) has access to a broad-based clinical research cohort or an established clinical case base.

''(c) CONTRACTING AUTHORITY.—In carrying out the purpose described in subsection (a), an eligible entity may expend a grant under such subsection to enter into contracts with academic institutions, cancer centers, and other entities, when determined appropriate by the Secretary.

''(d) APPLICATION FOR GRANT.—A grant may be made under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

''(e) AUTHORITY OF SECRETARY REGARDING USE OF GRANT.—The Secretary shall determine the appropriate uses of grants under subsection (a) to achieve the purpose described in such subsection.

''(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.''.

(b) CONFORMING AMENDMENT REGARDING AUTHORIZATION OF APPROPRIATIONS.—Section 399F(a) of the Public Health Service Act (42 U.S.C. 280e–4(a)) is amended in the first sentence by striking ''this part,'' and inserting ''this part (other than section 399E–1),''.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senator HUTCHISON, Senator HARKIN and Senator FEINSTEIN in introducing the Cancer Survivorship and Quality of Life Act. It is fitting that we are introducing this important legislation today. Just three days ago, as the world knows, Lance Armstrong, the champion cyclist from Texas, won his 5th consecutive Tour de France. His triumph is an extraordinary achievement in and of itself, and it is even more extraordinary, because just 6 years ago, he was diagnosed with a form of cancer—testicular cancer—that is often curable when detected early, but that in his case had already spread to his abdomen, his lungs, and brain. Twenty-five years ago, he probably would not have survived. But with the treatment and therapy now available and the same fighting spirit that made him a winner yesterday, he won the battle against cancer and became a worldwide symbol of courage and achievement.

His success is also a vivid symbol of the rapid progress being made in the ongoing battle against cancer. Never before have there been such high rates of survival for what used to be an overwhelmingly deadly disease. Cancer research has brought new and more sensitive screening tests and more accurate and less invasive diagnostic procedures. Greater arrays of treatments are available that can cure cancer completely or keep it at bay for many years.

As a result of these medical and technological advances, over half of all adults and over three-quarters of all children diagnosed with cancer today will be living five years from now and often far longer. Experts now refer to many forms of cancer as ''chronic diseases'' illnesses that never go away, but can be treated in ways enabling patients to focus on living instead of preparing for death.

In the United States today, there are almost 10 million cancer survivors, and 40 percent of them are younger than 65. The financial cost is large. Direct costs for cancer care and the indirect costs to the economy are now estimated at $180 billion dollars per year. But more important than the financial costs are the devastating personal and emotional costs to the patients, their families and loved ones, and their caregivers as well. Almost a quarter of adults with cancer are parents who have a child 18 years old or younger living at home. Nearly 1.3 million people will be diagnosed with cancer this year—3,500 persons each and every day.

The National Cancer Institute and other federal agencies now devote the majority of their funds to diagnosing and treating cancer, and we need to continue strong federal support for these purposes. Greater support is clearly needed to deal with the issues affecting survivors. Many cancer survivors say that equally important is the ''non-medical'' care that they have received, and that is the purpose of the bill we are introducing today.

The Cancer Survivorship Research and Quality of Life Act creates a Cancer Survivorship Office in the National Institutes of Health and a Cancer Control Center in the Centers for Disease Control and Prevention to develop effective ways to improve the quality of life for patients with cancer and their families. Such efforts include education of patients about their cancer, their options for treatment, and how and when to ask for a second opinion. They also include information about support networks and other services in their community.

Under our bill, the Centers for Disease Control and the National Cancer Institute will work together to expand their data collection to include information about survivors and improvements in the care of individuals newly diagnosed with cancer, such as successful treatments, rehabilitation, and nutritional and exercise programs. Currently, there is no effective way for new information to be widely shared. Patients who are cancer survivors or who have family members or loved ones with cancer understand the importance of this information. We introduce this bill with the full support of the Lance Armstrong Foundation, which has brought the issue of cancer survivorship to our national attention. I urge the Senate to give our legislation the priority it deserves.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, and Mr. DURBIN):

S. 1497. A bill to amend the Communications Act of 1934 to revise and expand the lowest unit cost provision applicable to political campaign broadcasts, to establish commercial broadcasting station minimum airtime requirements for candidate-centered and issue-centered programming before primary and general elections, to establish a voucher system for the purchase of commercial broadcast airtime for political advertisement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am introducing the ''Our Democracy, Our Airwaves Act.'' This legislation is designed to increase the flow of political information in broadcast media and to reduce the cost to candidates of educating the electorate on their candidacy.

Consistent with broadcasters' obligations to serve the public interest in exchange for being licensed to use the public airwaves, the bill would require broadcast licensees to air a minimum of two hours per week of candidate-centered or issue-centered programming before a primary or general Federal election. This legislation also would establish a program to provide candidates and national committees of political parties vouchers that they may use for political advertisements on radio and television broadcast stations. An annual spectrum use fee paid by broadcasters would fund the voucher system. Finally, the bill would require broadcast television and radio stations to provide candidates and parties with non-preemptible advertising time at the lowest rate provided to any other advertiser.

At a recent Committee hearing I chaired on the public interest obligations of broadcasters, it became apparent that local broadcasters are not adequately covering political campaigns as part of their local newscasts. The hearing examined the results of a study prepared by the Lear Center Local News Archive, which found that over a seven-week period from September 18, 2002 through November 4, 2002, 56 percent of the top-rated half-hour news broadcasts did not contain a single political campaign story. In the 44 percent of broadcasts that did contain campaign coverage, the average campaign story was 89 seconds long. When campaigned stories did air, only 28 percent contained stories where candidates spoke with the average sound bit being 12 seconds long.

This study illustrates the pressures on political candidates to raise money because they are forced to gain the public's attention through the use of costly advertisements. Our democracy is stronger when a candidate's success is achieved by ideas, not by dollars, and when an electorate is informed by facts, not 12-second sound bites. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S.1497

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 ''Our Democracy, Our Airwaves Act of 2003''.

SEC. 2. MEDIA RATES.

(a) LOWEST UNIT CHARGE; NATIONAL COMMITTEES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''to such office'' in paragraph (1) and inserting ''to such office, or by a national committee of a political party on behalf of such candidate in connection with such campaign,''; and

(2) by inserting ''for pre-emptible use thereof'' after ''station'' in subparagraph (A) of paragraph (1).

(b) PREEMPTION; AUDITS.—

(1) IN GENERAL.—Section 315 of such Act (47 U.S.C. 315) is amended—

(A) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively and moving them to follow the existing subsection (e);

(B) by redesignating the existing subsection (e) as subsection (c); and

(C) by inserting after subsection (c) the following:

''(d) PREEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding the requirements of subsection (b)(1)(A), a licensee shall not preempt the use of a broadcasting station by an eligible candidate or political committee of a political party who has purchased and paid for such use.

''(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program shall be treated in the same fashion as a comparable commercial advertising spot.

''(e) AUDITS.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this section applies is allocating television broadcast advertising time in accordance with this section and section 312.

(2) CONFORMING AMENDMENT.—Section 504 of the Bipartisan Campaign Reform Act of 2002 is amended by striking ''315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and'' and inserting ''315) is amended by''.

(c) STYLISTIC AMENDMENTS.—Section 315 of such Act (47 U.S.C. 315) is amended—

(1) by striking ''For purposes of this section—'' in subsection (e), as redesignated by subsection (b)(1)(A) of this section, and inserting ''DEFINITIONS.—In this section:'';

(2) by striking ''the'' in paragraph (1) of that subsection and inserting ''BROADCASTING STATION.—The'';

(3) by striking ''the'' in paragraph (2) of that subsection and inserting ''LICENSEE; STATION LICENSEE.—The''; and

(4) by inserting ''REGULATIONS.—'' in subsection (f), as so redesignated, before ''The Commission''.

SEC. 3. MINIMUM TIME REQUIREMENTS FOR CANDIDATE-CENTERED OR ISSUE-CENTERED BROADCASTS BY BROADCASTING STATIONS.

(a) IN GENERAL.—

(1) PROGRAM CONTENT REQUIREMENTS.—In the administration of the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission may not determine that a broadcasting station has met its obligation to operate in the public interest unless the station demonstrates to the satisfaction of the Commission that—

(A) it broadcast at least 2 hours per week of candidate-centered programming or issue-centered programming during each of the 6 weeks preceding a Federal election, including at least 4 of the weeks immediately preceding a general election; and

(B) not less than 1 hour of such programming was broadcast in each of those weeks during the period beginning at 5:00 p.m. and ending at 11:35 p.m. in the time zone in which the primary broadcast audience for the station is located.

(2) NIGHTOWL BROADCASTS NOT COUNTED.—For purposes of paragraph (1), any candidate-centered programming or issue-centered programming broadcast between midnight and 6:00 a.m. in the time zone in which the primary broadcast audience for the station is located shall not be taken into account.

(3) NONPARTISAN VOTER REGISTRATION AND GET-OUT-THE-VOTE BROADCASTS.—For purposes of paragraph (1), programming that constitutes nonpartisan activity designed to encourage individuals to vote or to register to vote, within the meaning of section 301(9)(B)(ii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)(ii)), is deemed to be issue-centered programming to the extent it does not exceed—

(A) 30 minutes per week for purposes of paragraph (1)(A); and

(B) 15 minutes per week for purposes of paragraph (1)(B).

(b) DEFINITIONS.—In this section:

(1) BROADCASTING STATION.—The term ''broadcasting station''—

(A) has the meaning given that term by section 315(e)(1) of the Communications Act of 1934.

(2) CANDIDATE-CENTERED PROGRAMMING.—The term ''candidate-centered programming''—

(A) includes debates, interviews, candidate statements, and other program formats that provide for a discussion of issues by the candidate; but

(B) does not include paid political advertisements.

(3) FEDERAL ELECTION.—The term ''Federal election'' has the meaning given that term in section 315A(g)(2) of the Communications Act of 1934.

(4) ISSUE-CENTERED PROGRAMMING.—The term ''issue-centered programming''—

(A) includes debates, interviews, statements, and other program formats that provide for a discussion of any ballot measure which appears on a ballot in a forthcoming election; but

(B) does not include paid political advertisements.

SEC. 4. POLITICAL ADVERTISEMENTS VOUCHER PROGRAM.

(a) IN GENERAL.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following:

''SEC. 315A. POLITICAL ADVERTISEMENT VOUCHER PROGRAM.

''(a) IN GENERAL.—The Commission shall establish and administer a voucher program for the purchase of airtime on broadcast stations for political advertisements in accordance with the provisions of this section.

''(b) CANDIDATES.—

''(1) DISBURSEMENT OF VOUCHERS.—Beginning no earlier than January of each even-numbered year after 2003, the Commission shall disburse vouchers at least once each month for the purchase of radio or television broadcast airtime for political advertisements on broadcasting stations to each individual certified by the Federal Election Commission under paragraph (2) as an eligible candidate.

''(2) FEC TO CERTIFY ELIGIBLE CANDIDATES.—The Commission may not disburse vouchers under paragraph (1) to an individual, until the Federal Election Commission has made the following certifications with respect to that individual:

''(A) QUALIFICATION.—The individual is a legally-qualified candidate in a Federal election.

''(B) AGREEMENT.—The individual has agreed in writing—

''(i) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

''(ii) to repay to the Federal Communications Commission an amount equal to 150 percent of the dollar value of vouchers received from the Commission if the Federal Election Commission makes a final determination that the individual violated any term of the agreement.

''(C) HOUSE OF REPRESENTATIVES CANDIDATES.—For candidates for election to the House of Representatives, that—

''(i) the individual has received at least $25,000 in contributions from individuals, not counting any amount in excess of $250 received from any individual;

''(ii) the individual agrees not knowingly to make expenditures from the individual's personal funds, or the personal funds of the individual's immediate family, in connection with the campaign for election to the House of Representatives in excess of, in the aggregate, $125,000; and

''(iii) the individual faces opposition by at least 1 other candidate who has received contributions or made expenditures of, in the aggregate, at least $25,000 or who has been certified by the Federal Election Commission under this paragraph as eligible to receive vouchers under paragraph (1).

''(D) SENATE CANDIDATES.—For candidates for election to the Senate, that—

''(i) the individual has received at least $25,000 in contributions from individuals, not counting any amount in excess of $250 received from any individual, multiplied by the number of Representatives from the State in which the individual seeks election;

''(ii) the individual agrees not knowingly to make expenditures from the individual's personal funds, or the personal funds of the individual's immediate family, in connection with the campaign for election to the Senate in excess of, in the aggregate, $500,000; and

''(iii) the individual faces opposition by at least 1 other candidate who has received contributions or made expenditures of, in the aggregate, at least $25,000 multiplied by the number of Representatives from the State in which the individual seeks election or who has been certified by the Federal Election Commission under this paragraph as eligible to receive vouchers under paragraph (1).

''(E) PRESIDENTIAL CANDIDATES.—For candidates for nomination for election, or election, to the Office of President—

''(i) the term 'Federal election' includes a primary election (as defined in section 9032(7) of the Internal Revenue Code of 1986 (26 U.S.C. 9032(7))); and

''(ii) in order to be eligible to receive vouchers under this section, the candidate shall—

''(i) execute the agreement described in subparagraph (B); and

''(II) certify in writing under penalty of perjury that the candidate has qualified to receive payments under section 9006 or 9037 of the Internal Revenue Code of 1986.

''(3) CERTIFICATION PROCESS.—In carrying out its duties under paragraph (2), the Federal Election Commission shall—

''(A) provide the requested certification, if the individual meets the requirements for certification, within 7 days after it receives the information necessary therefor; and

''(B) shall comply with the requirements of chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) and take other appropriate steps to minimize the paperwork burden on candidates seeking certification under this subsection.

''(c) POLITICAL PARTIES.—

''(1) DISBURSEMENT OF VOUCHERS.—In January, 2004, and January of each even-numbered year thereafter, the Commission shall disburse vouchers for the purchase of radio or television broadcast airtime for political advertisements on broadcasting stations to each political party committee certified by the Federal Election Commission under paragraph (2) as an eligible committee.

''(2) FEC TO CERTIFY ELIGIBLE COMMITTEES.—The Commission may not disburse vouchers under paragraph (1) to a political party committee, until the Federal Election Commission has made the following certifications with respect to that committee:

''(A) NATIONAL PARTY COMMITTEES.—The committee is the national committee of a political party or the national congressional campaign committee of a political party (as those terms are used in section 323(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i(a)(1))).

''(B) MINOR PARTY COMMITTEES.—In the case of a political party committee that is not described in subparagraph (A), the committee meets the candidate base requirement of subparagraph (C).

''(C) CANDIDATE BASE.—The committee has candidates—

''(i) for election to the House of Representatives who have been certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in at least 22 districts; or

''(ii) for election to the Senate in at least 5 States who have been certified by the Federal Election Commission under subsection (b)(2) as eligible candidates.

''(D) AGREEMENT.—The committee agrees in writing—

''(i) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

''(ii) to repay to the Federal Communications Commission an amount equal to 150 percent of the dollar value of vouchers received from the Commission if the Federal Election Commission makes a final determination that the committee violated any term of the agreement.

''(d) AMOUNTS.—

''(1) CALENDAR YEAR 2004 AGGREGATES.—For calendar year 2004, the Commission shall disburse vouchers in the aggregate amount of not more than $750,000,000, of which—

''(A) not more than $650,000,000 shall be available for disbursement to candidates under subsection (b); and

''(B) not more than $100,000,000 shall be available for disbursement to political parties under subsection (c).

''(2) PER-CANDIDATE AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the Commission shall disburse vouchers to an individual candidate under subsection (b)(1) with respect to a Federal election equal, in the aggregate, to $3 multiplied by the contributions received by that individual with respect to that election, not counting any amount in excess of $250 received from any individual.

''(B) MAXIMUM.—Except as provided in subparagraph (C), the Commission may not disburse vouchers to an individual candidate under subsection (b)(1) with respect to a Federal election of more than—

''(i) $375,000, for a candidate for election to the House of Representatives; or

''(ii) $375,000 multiplied by the number of Representatives from the State from which the individual seeks election, for a candidate for election to the Senate.

''(C) SPECIAL RULE FOR PRESIDENTIAL CANDIDATES.—The Commission shall disburse vouchers to a candidate for nomination for election, or election, to the Office of President who receives payments under section 9037 or 9006 of the Internal Revenue Code of 1986 (26 U.S.C. 9037 or 9006), respectively, equal to—

''(i) $1 for each dollar received under section 9037 of such Code; and

''(ii) 50 cents for each dollar received under section 9006 of such Code.

''(3) PER-COMMITTEE AMOUNT.—

''(A) IN GENERAL.—The $100,000,000 available to be disbursed to political parties shall disbursed as follows:

''(i) The Commission shall reserve a percentage, determined by the Commission on the basis of the Commission's good faith estimate of demand by minor party committees, of the amount available for disbursement as provided in subparagraph (B) to political party committees described in subsection (c)(2)(B) that have been or will be certified by the Federal Election Commission as eligible political party committees.

''(ii) The Commission shall disburse the remainder of the amount available for disbursement in equal amounts among political party committees described in subsection (c)(2)(A) that have been or will be certified by the Federal Election Commission as eligible political party committees.

''(B) MINOR PARTY COMMITTEE AMOUNT.—From the amount reserved under subparagraph (A)(i), the Commission shall disburse to political party committees described in subsection (c)(2)(B) certified by the Federal Election Commission as eligible political party committees—

''(i) the same amount as the Commission disburses to each political party committee under subparagraph (A)(ii) if the political party with which the political committee is affiliated has—

''(I) candidates for election to the House of Representatives certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in 218 or more districts; or

''(II) candidates for election to the Senate certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in 17 or more of the States in which elections for United States Senator are being held; and

''(ii) a percentage of such amount, determined under subparagraph (C), if the political party with which the political committee is affiliated does not qualify for the full amount under clause (i).

''(C) PROPORTIONATE AMOUNT DETERMINATION.—The amount the Commission shall disburse to a political party committee described in subparagraph (B)(ii) is a percentage of the amount disbursed to a political party committee under subparagraph (A)(2) equal to the greater of the following percentages:

''(i) A percentage—

''(I) the numerator of which is the number of districts in which the party has candidates for election to the House of Representatives certified by the Federal Election Commission under subsection (b)(2) as eligible candidates; and

''(II) the denominator of which is 435.

''(ii) A percentage—

''(I) the numerator of which is the number of States in which the party has candidates for election to the Senate certified by the Federal Election Commission under subsection (b)(2) as eligible candidates; and

''(II) the denominator of which is 33 (or 34 in any year in which there are 34 Senators for election).

''(e) INFLATION ADJUSTMENT.—Each dollar amount in this section shall be adjusted for even-numbered years after 2003 in the same manner as the limitations in section 315(b) and (d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(b) and (d)) are adjusted under section 315(c) of that Act (2 U.S.C. 441a(c)), except that, for the purpose of applying section 315(c)—

''(1) '(commencing in 2005)' shall be substituted for '(commencing in 1976)' in paragraph (1) of that section; and

''(2) '2003' shall be substituted for '1974' in paragraph (2)(B) of that section.

''(f) USE.—

''(1) EXCLUSIVE USE.—Vouchers disbursed by the Commission under this section may be used exclusively for the purpose described in subsection (b) by the candidate or political party committee to which the vouchers were disbursed, except that—

''(A) a candidate may exchange vouchers with a political party under paragraph (2); and

''(B) a political party may use vouchers to purchase broadcast airtime for political advertisements for its candidates in a general election for any Federal, State, or local office if it discloses the value of the voucher used as an expenditure under section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(d)).

''(2) EXCHANGE WITH POLITICAL PARTY COMMITTEE.—

''(A) IN GENERAL.—A individual who receives a voucher under this section may transfer the right to use all or a portion of the value of the voucher to a committee, described in subsection (c)(2)(A), of the political party of which the individual is a candidate in exchange for money in an amount equal to the cash value of the voucher or portion exchanged.

''(B) CONTINUATION OF CANDIDATE OBLIGATIONS.—The transfer of a voucher, in whole or in part, to a political party committee under this paragraph does not release the candidate from any obligation under the agreement made under subsection (b)(2) or otherwise modify that agreement or its application to that candidate.

''(C) PARTY COMMITTEE OBLIGATIONS.—Any political party committee to which a voucher or portion thereof is transferred under subparagraph (A)—

''(i) shall account fully, in accordance with such requirements as the Commission may establish, for the receipt of the voucher; and

''(ii) may not use the transferred voucher or portion thereof for any purpose other than a purpose described in paragraph (1)(B).

''(D) VOUCHER AS A CONTRIBUTION UNDER FECA.—If a candidate transfers a voucher or any portion thereof to a political party committee under subparagraph (A)—

''(i) the value of the voucher or portion thereof transferred shall be treated as a contribution from the candidate to the committee, and from the committee to the candidate, for purposes of sections 302 and 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432 and 434);

''(ii) the committee may, in exchange, provide to the candidate only funds subject to the prohibitions, limitations, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.); and

''(iii) the amount, if identified as a 'voucher exchange' shall not be considered a contribution for the purposes of section 315 of that Act (2 U.S.C. 441a).

''(g) VALUE; ACCEPTANCE; REDEMPTION.—

''(1) VOUCHER.—Each voucher disbursed by the Commission under this section shall have a value in dollars, redeemable upon presentation to the Commission, together with such documentation and other information as the Commission may require, for the purchase of broadcast airtime for political advertisements in accordance with this section.

''(2) ACCEPTANCE.—A broadcasting station shall accept vouchers in payment for the purchase of broadcast airtime for political advertisements in accordance with this section.

''(3) REDEMPTION.—The Commission shall redeem vouchers accepted by broadcasting stations under paragraph (2) upon presentation, subject to such documentation, verification, accounting, and application requirements as the Commission may impose to ensure the accuracy and integrity of the voucher redemption system. The Commission shall use amounts in the Political Advertising Voucher Account established under subsection (h) to redeem vouchers presented under this subsection.

''(4) EXPIRATION.—

''(A) CANDIDATES.—A voucher may only be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on the day before the date of the Federal election in connection with which it was issued and shall be null and void for any other use or purpose.

''(B) EXCEPTION FOR POLITICAL PARTY COMMITTEES.—A voucher held by a political party committee may be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on December 31st of the odd-numbered year following the year in which the voucher was issued by the Commission.

''(5) VOUCHER AS EXPENDITURE UNDER FECA.—

''(A) CONGRESSIONAL CAMPAIGNS.—Except as provided in subparagraph (B), for purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), the use of a voucher to purchase broadcast airtime constitutes an expenditure as defined in section 301(9)(A) of that Act (2 U.S.C. 431(9)(A)).

''(B) PRESIDENTIAL CAMPAIGNS.—Notwithstanding any provision of the Federal Election Campaign Act of 1971 or chapter 95 or 96 of the Internal Revenue Code of 1986 to the contrary, the use of a voucher by a candidate for nomination for election, or election, to the Office of President does not constitute an expenditure for purposes of that Act or chapter.

''(h) POLITICAL ADVERTISING VOUCHER ACCOUNT.—

''(1) IN GENERAL.—The Commission shall establish an account to be known as the Political Advertising Voucher Account, which shall be credited with commercial television and radio spectrum use fees assessed under this subsection, together with any amounts repaid or otherwise reimbursed under this section.

''(2) SPECTRUM USE FEE.—

''(A) IN GENERAL.—The Commission shall assess, and collect annually, a spectrum use fee based on a percentage of a broadcasting station's gross revenues in an amount necessary to carry out the provisions of this section.

''(B) LIMITATIONS.—The percentage under subparagraph (A) may not be—

''(i) greater than 1 percent; nor

''(ii) less than .05 percent.

''(C) AVAILABILITY.—Any amount assessed and collected under this paragraph shall be retained by the Commission as an offsetting collection for the purposes of making disbursements under this section, except that—

''(i) the salaries and expenses account of the Commission shall be credited with such sums as are necessary from those amounts for the costs of developing and implementing the program established by this section; and

''(ii) the Commission may reimburse the Federal Election Commission for any expenses incurred by the Commission under this section.

''(D) FEE DOES NOT APPLY TO PUBLIC BROADCASTING STATIONS.—Subparagraph (A) does not apply to a public telecommunications entity (as defined in section 397(12) of this Act).

''(3) ADMINISTRATIVE PROVISIONS.—Except as otherwise provided in this subsection, section 9 of this Act applies to the assessment and collection of fees under this subsection to the same extent as if those fees were regulatory fees imposed under section 9.

''(i) DEFINITIONS.—In this section:

''(1) BROADCASTING STATION.—The term 'broadcasting station' has the meaning given that term by section 315(e)(1) of this Act.

''(2) FEDERAL ELECTION.—The term 'Federal election' means any regularly-scheduled, primary, runoff, or special election held to nominate or elect a candidate to Federal office.

''(3) FEDERAL OFFICE.—The term 'Federal office' has the meaning given that term by section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)).

''(4) LEGALLY-QUALIFIED CANDIDATE.—The term 'legally-qualified candidate' means a legally qualified candidate within the meaning of section 315 of this Act.

''(5) POLITICAL PARTY.—The term 'political party' means a major party or a minor party as defined in section 9002(3) or (4) of the Internal Revenue Code of 1986 (26 U.S.C. 9002(3) or (4)).

''(6) OTHER TERMS.—Except as otherwise provided in this section, any term used in this section that is defined in section 301 of the Federal Election Campaign of 1971 (2 U.S.C. 431) has the meaning given that term by section 301 of that Act.

''(j) REGULATIONS.—The Commission shall prescribe such regulations as may be necessary to carry out the provisions of this section. In developing the regulations, the Commission shall consult with the Federal Elections Commission.''.

(b) DELAYED EFFECTIVE DATE FOR PRESIDENTIAL CANDIDATES.—The provisions of subsections (b)(2)(E) and (d)(2)(C) of section 315A of the Communications Act of 1934, as added by subsection (a), shall take effect on January 1, 2008.

SEC. 5. FCC TO PRESCRIBE STANDARDIZED FORM FOR REPORTING CANDIDATE CAMPAIGN ADS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a rulemaking proceeding to establish a standardized form to be used by broadcasting stations (as defined in section 315(e)(1) of the Communications Act of 1934; 47 U.S.C. 315(e)(1)) to record and report the purchase of advertising time by or on behalf of a candidate for nomination for election, or for election, to Federal elective office.

(b) CONTENTS.—The form prescribed by the Commission shall require, broadcasting stations to report, at a minimum—

(1) the station call letters and mailing address;

(2) the name and telephone number of the station's sales manager (or individual with responsibility for advertising sales);

(3) the name of the candidate who purchased the advertising time, or on whose behalf the advertising time was purchased, and the Federal elective office for which he or she is a candidate;

(4) the name, mailing address, and telephone number of the person responsible for purchasing broadcast political advertising for the candidate;

(5) notation as to whether the purchase agreement for which the information is being reported is a draft or final version; and

(6) the following information about the advertisement:

(A) The date and time of the broadcast.

(B) The program in which the advertisement was broadcast.

(C) The length of the broadcast airtime.

(c) INTERNET ACCESS.—In its rulemaking, the Commission shall require any broadcasting station reporting under this section that maintains an Internet website to make available a link to reports under this section on that website.

Mr. FEINGOLD. Mr. President, I am pleased to once again join with the Senator from Arizona, Senator MCCAIN, in introducing legislation that we believe will significantly improve media coverage of elections and reduce the negative impact that skyrocketing TV advertising costs have on Federal campaigns. And I am very glad that the Senator from Illinois, Senator DURBIN, has again joined us as an original cosponsor of this bill.

Although broadcast advertising is one of the most effective forms of communication in our democracy, it also diminishes the quality of our electoral process in two ways. First, broadcasters often fail to provide adequate coverage to the issues in elections, focusing instead on the horse race, if they cover elections at all. Second, the extraordinarily high cost of advertising time fuels the insatiable need for candidates to spend more and more time fundraising instead of talking with voters. These two problems interact to undermine the great promise that television has for promoting democratic discourse in our country.

It need not be this way. The public owns the airwaves and licenses them to broadcasters. Broadcasters pay nothing for their use of this scarce and very valuable public resource. Their only ''payment'' is a promise to serve the public interest, a promise that often goes unfulfilled. A study by the Committee for the Study of the American Electorate found that only 18 percent of gubernatorial, senatorial and congressional debates held in 2000 were televised by network TV and an additional 18 percent were covered by PBS or small independent TV stations. More than 63 percent were not televised at all. This is shocking in a democracy that depends on information and open debate.

The bill we introduce today addresses these problems by requiring broadcast stations to devote a reasonable amount of air time to election programming. It would also direct the FCC to create a voucher system in which candidates and parties would receive vouchers they could use for paid radio or TV advertising time, financed by a broadcast spectrum usage fee. Candidates would qualify for vouchers based on a ratio matched to the amount of small dollar donations they raise.

Our proposal would allow candidates to leverage their grassroots fundraising and would provide greater campaign resources to candidates without requiring them to become more beholden to special interests. The proposal would also make air time available to political parties, which could be directed to underfunded candidates and challengers who have a harder and harder time getting their message out under the current system as the costs of advertising continue to rise.

Senator MCCAIN and I remain devoted to improving the way our electoral process functions and reducing the impact of big money on our democracy. This bill will advance that cause in a very significant and necessary way. I look forward to working with my colleagues to fine tune this bill and enact it into law. Together we can make campaigns less expensive, and more informative, using the public airwaves as a tool to improve our democracy.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, Ms. LANDRIEU, and Mr. KERRY):

S. 1498. A bill to provide for the establishment of a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators COCHRAN, LANDRIEU, and KERRY entitled ''The Health Workforce Advisory Commission Act of 2003'' is designed to create a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies.

In my own State of New Mexico, over 9 percent of our total workforce is employed in the health sector. The New Mexico work force is not dissimilar to the rest of the Nation, where the total health workforce comprises 10.5 percent of the total U.S. labor force.

By 2020, the total population of New Mexico is projected to grow 32 percent and the population over 65 is projected to grow 80 percent, compared to national growth projections of 18 percent and 53 percent, respectively. But who will care for these burgeoning populations? New Mexico ranks 33rd among States in physicians per capita, and we graduate fewer new physicians per 1,000,000 population than the entire United States.

The problem is not simply one of too few physicians however. New Mexico ranks 7th lowest among the States in per capita employment of Licensed Practical/Vocational Nurses and we have 7 nurse anesthetists per 100,000 population, while the national average is close to 9 per 100,000 population. New Mexico ranks 49th in the Nation in then number of dentists per capita. In fact, while the State's population grew in the 1990s by 12 percent, the number of dentists in New Mexico declined 7 percent in the same time period. Among the 50 States, New Mexico ranks 42nd in the number of pharmacists per 100,000 population.

We are reflection of a crisis occurring in States across the Nation: a critical shortage in multiple areas of the health workforce in the face of a changing population whose health care needs are only going to grow and increase in complexity.

It is estimated that by 2050 the U.S. will need to more than triple its number of long-term care workers; enrollment in nursing education programs has been declining of the last 8 years; vacancy rates for pharmacists in Federal facilities is up to 18 percent and 11 percent in public hospitals. At the same time, the number of practitioners other than physician grew rapidly in the 1990s. How does this growth interact with the simultaneous shortages in other areas? How should the workforce of the future best be structured to meet the rise in baby boomers and how should we prepare for this?

These are the issues that health workforce policies attempt to address. There has been, and continues to be, a significant investment on the part of Federal and State governments in measuring, monitoring, and analyzing the numbers and types of health professionals who are trained and practice in the U.S. but despite such efforts, there remain significant problems in determining the appropriate number, type, and distribution of such personnel needed to provide access to appropriate care for Americans. The underlying problem is that health workforce policies developed by various State and

Federal entities tend to be profession or position specific. What is lacking is a perspective on health workforce policies that is both interactive and global in nature. As health care becomes increasingly complex, and as the health needs of the Nation changes, it is imperative to have a means with which the dynamics of a changing health care market and health care workforce can be assessed and addressed.

We are all aware of the critical nursing shortages so many areas face now, the increasing difficulty in recruiting and retaining rural based physicians, the shortages of pharmacists and pharmacy techs, and of skilled laboratory technicians. And there are organizations focused on each of these specific issues; but these issues overlap in the marketplace and impact each other in ways we cannot currently define. It is as if there were a giant health care workforce machine with 500 interacting mechanisms and while there is a specific mechanic for each of these components, there is no mechanic looking at the machine as a whole. The health workforce is more than the sum of its individual parts, and in order to enact effective Federal workforce policies, this must be reflected in the analysis and creation of such policies. HWAC is designed to do that.

For these reasons, we have introduced legislation that will create a new health workforce commission, or HWAC for short. This legislation requires the creation of a national advisory commission to review and make recommendations pertaining to Federal health workforce policies. Specifically, it will: Review federal health workforce policy under the following Acts and their titles: Social Security Act, titles 18 & 19; Public Health Service Act Titles 7 & 8, NIH, DOD, and VA and other pertinent Acts and titles; Analyze and make recommendations to improve the methods used to measure and monitor the U.S. health workforce and the relationship between numbers and mix of such personnel and access to appropriate health care; Review health workforce policies and other factors and their impact on the ability of the health care system to provide optimal medical and health care services; Analyze and make recommendations pertaining to federal incentives, financial, regulatory, and otherwise, and federal programs currently in place to promote the education of an appropriate number and mix of health professionals to provide access to appropriate health care for U.S. citizens; Analyze and make recommendations about the appropriate supply and distribution of physicians, nurses, and other health professionals and personnel to achieve a health care system that is safe, effective, patient centered, timely, equitable, and efficient; Analysis of the role(s) and global implications of internationally trained physicians, nurses, and other health professionals and personnel in the U.S. workforce; Analyze and make recommendations about achieving the appropriate diversity of the U.S. health workforce.

The Commission will be represented by national experts in health workforce issues, the commissioned corps of the Public Health Service, a wide spectrum of health professionals and personnel, and be geographically balanced in its representation. The Commission will work closely with other state and Federal advisory panels that deal with professional or work specific issues of health workforce policy. Membership in the Commission will be chosen by the Comptroller General, with representation from a diverse group of fields in health care, including members who are recognized for their policy expertise in health workforce measurement, monitoring, and analysis, health services, economic and other workforce related research and technology assessments. At least 25 percent of the members are to be health care providers from rural areas, in order to ensure a geographic balance in representation. Through the creation of HWAC, a nodal focus of information gathering, sharing, analysis, and implementation of the knowledge created about the dynamics of the U.S. health workforce will be put into place.

This legislation was created with significant input and assistance from a variety of national organizations representing a cross section of the spectrum of the U.S. health workforce. Organizations that have expressed support for this bill include: American College of Physicians—American Society of Internal Medicine, the American Clinical Laboratory Association, the National Organization of Nurse Practitioner Faculties, the American Society of Health-System Pharmacists, the American Chiropractic Association, the National Rural Health Association, the Commissioned Officers Association of the USPHS, and the Therapeutic Communities of America.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1498

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 ''Health Workforce Advisory Commission Act of 2003''.

SEC. 2. HEALTH WORKFORCE ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The Comptroller General shall establish a commission to be known as the Health Workforce Advisory Commission (referred to in this Act as the ''Commission'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 18 members to be appointed by the Comptroller General not later than 90 days after the date of enactment of this Act.

(2) QUALIFICATIONS.—In appointing members to the Commission under paragraph (1), the Comptroller General shall ensure that—

(A) the Commission includes individuals with national recognition for their expertise in health care workforce issues, including workforce forecasting, undergraduate and graduate training, economics, health care and health care systems financing, public health policy, and other fields;

(B) the members are geographically representative of the United States and maintain a balance between urban and rural representatives;

(C) the members includes a representative from the commissioned corps of the Public Health Service;

(D) the members represent the spectrum of professions in the current and future healthcare workforce, including physicians, nurses, and other health professionals and personnel, and are skilled in the conduct and interpretation of health workforce measurement, monitoring and analysis, health services, economic, and other workforce related research and technology assessment;

(E) at least 25 percent of the members who are health care providers are from rural areas; and

(F) a majority of the members are individuals who are not currently primarily involved in the provision or management of health professions education and training programs.

(3) TERMS AND VACANCIES.—

(A) TERMS.—The term of service of the members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for members initially appointed under paragraph (1).

(B) VACANCIES.—Any member who is appointed to fill a vacancy on the Commission that occurs before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(4) CHAIRPERSON.—

(A) DESIGNATION.—The Comptroller General shall designate a member of the Commission, at the time of the appointment of such member—

(i) to serve as the Chairperson of the Commission; and

(ii) to serve as the Vice Chairperson of the Commission.

(B) TERM.—A member shall serve as the Chairperson or Vice Chairperson of the Commission under subparagraph (A) for the term of such member.

(C) VACANCY.—In the case of a vacancy in the Chairpersonship or Vice Chairpersonship, the Comptroller General shall designate another member to serve for the remainder of the vacant member's term.

(c) DUTIES.—The Commission shall—

(1) review the health workforce policies implemented—

(A) under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395, 1396 et seq.);

(B) under titles VII and VIII of the Public Health Service Act (42 U.S.C. 292, 296 et seq.);

(C) by the National Institutes of Health;

(D) by the Department of Health and Human Services;

(E) by the Department of Veterans Affairs; and

(F) by other departments and agencies as appropriate;

(2) analyze and make recommendations to improve the methods used to measure and monitor the health workforce and the relationship between the number and make up of such personnel and the access of individuals to appropriate health care;

(3) review the impact of health workforce policies and other factors on the ability of the health care system to provide optimal medical and health care services;

(4) analyze and make recommendations pertaining to Federal incentives (financial, regulatory, and otherwise) and Federal programs that are in place to promote the education of an appropriate number and mix of

health professionals to provide access to appropriate health care in the United States;

(5) analyze and make recommendations about the appropriate supply and distribution of physicians, nurses, and other health professionals and personnel to achieve a health care system that is safe, effective, patient centered, timely equitable, and efficient;

(6) analyze the role and global implications of internationally trained physicians, nurses, and other health professionals and personnel in the United States health workforce;

(7) analyze and make recommendations about achieving appropriate diversity in the United States health workforce;

(8) conduct public meetings to discuss health workforce policy issues and help formulate recommendations for Congress and the Secretary of Health and Human Services;

(9) in the course of meetings conducted under paragraph (8), consider the results of staff research, presentations by policy experts, and comments from interested parties;

(10) make recommendations to Congress concerning health workforce policy issues;

(11) not later than April 15, 2004, and each April 15 thereafter, submit a report to Congress containing the results of the reviews conducted under this subsection and the recommendations developed under this subsection;

(12) periodically, as determined appropriate by the Commission, submit reports to Congress concerning specific issues that the Commission determines are of high importance; and

(13) carry out any other activities determined appropriate by the Secretary of Health and Human Services.

(d) ONGOING DUTIES CONCERNING REPORTS AND REVIEWS.—

(1) COMMENTING ON REPORTS.—

(A) SUBMISSION TO COMMISSION.—The Secretary of Health and Human Services shall transmit to the Commission a copy of each report that is submitted by the Secretary to Congress if such report is required by law and relates to health workforce policy.

(B) REVIEW.—The Commission shall review a report transmitted under subparagraph (A) and, not later than 6 months after the date on which the report is transmitted, submit to the appropriate committees of Congress written comments concerning such report. Such comments may include such recommendations as the Commission determines appropriate.

(2) AGENDA AND ADDITIONAL REVIEWS.—

(A) IN GENERAL.—The Commission shall consult periodically with the chairman and ranking members of the appropriate committees of Congress concerning the agenda and progress of the Commission.

(B) ADDITIONAL REVIEWS.—The Commission may from time to time conduct additional reviews and submit additional reports to the appropriate committees of Congress on topics relating to Federal health workforce-related programs and as may be requested by the chairman and ranking members of such committees.

(3) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary of Health and Human Services a copy of each report submitted by the Commission under this section and shall make such reports available to the public.

(e) POWERS OF THE COMMISSION.—

(1) GENERAL POWERS.—Subject to such review as the Comptroller General determines to be necessary to ensure the efficient administration of the Commission, the Commission may—

(A) employ and fix the compensation of the Executive Director and such other personnel as may be necessary to carry out its duties;

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements as may be necessary for the conduct of the work of the Commission.

(D) make advance, progress, and other payments that relate to the work of the Commission;

(E) provide transportation and subsistence for personnel who are serving without compensation; and

(F) prescribe such rules and regulations at the Commission determined necessary with respect to the internal organization and operation of the Commission.

(2) INFORMATION.—To carry out its duties under this section, the Commission—

(A) shall have unrestricted access to all deliberations, records, and nonproprietary data maintained by the General Accounting Office;

(B) may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties under this section, on a schedule that is agreed upon between the Chairperson and the head of the department or agency involved;

(C) shall utilize existing information (published and unpublished) collected and assessed either by the staff of the Commission or under other arrangements;

(D) may conduct, or award grants or contracts for the conduct of, original research and experimentation where information available under subparagraphs (A) and (B) is inadequate;

(E) may adopt procedures to permit any interested party to submit information to be used by the Commission in making reports and recommendations under this section; and

(F) may carry out other activities determined appropriate by the Commission.

(f) ADMINISTRATIVE PROVISIONS.—

(1) COMPENSATION.—While serving on the business of the Commission a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for under level IV of the Executive Schedule under title 5, United States Code.

(2) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(3) EXECUTIVE DIRECTOR AND STAFF.—The Comptroller General shall appoint an individual to serve as the interim Executive Director of the Commission until the members of the Commission are able to select a permanent Executive Director under subsection (e)(1)(A).

(4) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

(5) AUDITS.—The Commission shall be subject to periodic audit by the Comptroller General.

(g) FUNDING.—

(1) REQUESTS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits such requests. Amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 2004, and such sums as may be necessary for each subsequent fiscal year, of which—

(A) 80 percent of such appropriated amount shall be made available from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i); and

(B) 20 percent of such appropriation shall be made available for amounts appropriated to carry out title XIX of such Act (42 U.S.C. 1396 et seq.).

(h) DEFINITION.—In this Act, the term ''appropriate committees of Congress'' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

By Mr. LEAHY:

S. 1499. A bill to adjust the boundaries of Green Mountain National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. Mr. President, today I am introducing a bill to expand the boundaries of the Green Mountain National Forest. This will allow for the inclusion of lands that have already been purchased using Land and Water Conservation Fund dollars to be brought into the boundaries of the national forest providing them full statutory protection. The Forest Service supports this administrative action and has been extremely helpful in providing the information needed for this legislation.

It is with pride that I can say that since I came to Congress in 1975 and began to seek funding for land acquisition in 1977 we Vermonters have seen the Green Mountain National Forest expand from approximately 264,100 acres to over 387,500 acres in size. This 123,400 acre expansion will provide unmeasured opportunities for the American public.

While there is much debate over the future management of our Nation's national forests today, this should not diminish their importance. In Vermont, where approximately five percent of land base is in federal ownership, these lands are treasured for the opportunities they provide not only to Vermonters, but to all who enjoy the Green Mountain National Forest. This includes recreational activities from camping, hiking, mountain biking, and skiing to job opportunities provided through timber management activities, the ski industry, and other support services, as well as for their intrinsic value by providing that certain lands are set aside for in their natural state through wilderness protection and other special designations.

I am concerned that some will argue that we need to reduce our land acquisition dollars and to better manage what we already have. I do not dispute the need for better management, but I wholeheartedly disagree with reducing our land acquisition efforts. At one time this Nation believed that our boundaries were limitless. Today we realize that land is a finite resource and as more is acquired for development less will available for the American public to acquire for Federal ownership. There will come a time when the only land one can freely access, thereby avoiding the ''No Trespassing'' signs, will be our Federal, State, and county lands. Visionaries see what tomorrow will bring and prepare for that today—those who are still building upon our public land base have that vision.

At the turn of the century, the 20th century that is, there existed that vision, between then Chief of the Forest

Service Gifford Pinchot and President Theodore Roosevelt who together expanded the boundaries of the national forests immensely. We continue to need that vision, as seen by the efforts by those on the Green Mountain National Forest, in continuing to fund land acquisition into the future.

This need, for providing the American public with unfettered access to open lands, is of significant importance to those who live east of the Mississippi; where more than 50 percent of the American public are within three hours of their national forests, but only have access to approximately one-quarter of the national forest land. I hope that my colleagues will join me in supporting this bill and continue to carry that vision on the future to build upon our national forest system as we start the 21st century.

By Mr. MCCAIN (by request):

S. 1501. A bill to amend title 49, United States code, to provide for stable, productive, and efficient passenger rail service in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today, by request, I am introducing the Passenger Rail Investment Reform Act, the Administration's long-awaited legislative proposal for restructuring Amtrak and the intercity passenger rail program. In doing so, I want to express my appreciation to Transportation Secretary Mineta and departing Deputy Secretary Michael Jackson for meeting their commitment to me in April to deliver the Administration's proposal before the August recess. I also want to credit the work of the Amtrak Reform Council, the basis for several elements of the Administration's plan.

Amtrak began operation in 1971 as a for-profit corporation and was to be free of all Federal support by 1973. Throughout its history, including between 1997 and 2001, Amtrak led Congress to believe that profitability, or at least operational self-sufficiency was achievable. But 32 years after its establishment, Amtrak is running annual deficits exceeding $1 billion; has run up a debt of nearly $5 billion; continues to operate trains that lose over $400 per passenger; and yet still has less than 1 percent of the intercity travel market. Clearly, reform is needed.

I hope the legislation I am introducing today will serve as the basis for developing a consensus about the future of Amtrak and intercity rail passenger service. Even Amtrak supporters should admit that without significant restructuring, the passenger rail program cannot be entrusted with billions of dollars of additional financial support from the taxpayers, as some are proposing, particularly financing outside of the annual appropriations process, which at least gives Congress the ability to adjust Amtrak's funding based on its performance and use of taxpayer dollars. Nor, in my view, should high-speed rail projects go forward until the Amtrak problem is solved.

My priority is to establish a network of train service that makes economic sense, minimizes subsidies at all levels of government, and provides fair and open competition for Amtrak. The Administration's proposal is a good start. Federal support for intercity passenger rail service would be modeled after the existing transit program and consist of capital funding matched by the States and managed through a ''full funding grant agreement'' process. States, rather than the Federal Government, would be responsible for funding operating losses after a transition period.

Following the recommendation of the Amtrak Reform Council, the legislation would divide Amtrak into an operating company which would operate train services, and an infrastructure company which would maintain the Northeast Corridor (NEC). After a transition period, the services provided by both companies would be subject to competition through competitive bidding. The NEC would be restored to a state of good repair, and leased to and managed by an interstate compact. Amtrak would not be privatized but would have to compete with companies in the private sector, ensuring a lower-cost solution for the taxpayers.

I intend to hold a hearing on the Administration's bill and the bill being introduced today by Senator HUTCHISON, the Chairman of the Subcommittee on Surface Transportation and Merchant Marine. If a consensus can be reached on a responsible proposal to fund and reform Amtrak and provide for an improved rail passenger program, the Committee will mark up legislation in the fall.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1501

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 ''Passenger Rail Investment Reform Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes; Definitions.
TITLE I—NATIONAL PASSENGER RAIL SERVICE RESTRUCTURING
Sec. 101. Board of directors of Amtrak.
Sec. 102. Passenger rail service restructuring.
Sec. 103. Northeast Corridor Compact.
Sec. 104. Assistance to address capital needs.
Sec. 105. Employee transition assistance; authorization.
Sec. 106. Limit on operating assistance for long-distance routes.
Sec. 107. Definitions.
Sec. 108. Repeal of obsolete and executed provisions of law; other.
TITLE II—FINANCIAL REFORM
Sec. 201. Limitations on availability of grants.
Sec. 202. Spending plans for capital backlog reduction.
Sec. 203. Redemption of common stock.
Sec. 204. Retirement of preferred stock; transfer of assets.
Sec. 205. Real estate and asset sales.
Sec. 206. Management and transfer of secured debt.
Sec. 207. Transition assistance.
TITLE III—GRANTS AND OTHER ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE
Sec. 301. Capital assistance for intercity passenger rail service.
Sec. 302. Final regulations on applications by States for corridor development grants.
Sec. 303. Authority for interstate compacts for corridor development.

SEC. 2. PURPOSES; DEFINITIONS.

(a) PURPOSES.—The purposes of this Act are to—

(1) preserve an intercity passenger rail service system in the United States that is driven by sound economics;

(2) provide a transition from the existing structure for providing such service to a structure that is more aligned with existing and emerging transportation needs;

(3) develop a system that provides high quality passenger rail service at a reasonable cost;

(4) establish a long-term partnership among the states and the Federal government to support intercity passenger rail service; and

(5) create an effective public-private partnership, after a reasonable transition, to manage the capital assets of the Northeast Corridor.

(b) DEFINITIONS.—In this Act:

(1) YEAR 1.—The term ''year 1'' means the earlier of—

(A) the fiscal year in which this Act is enacted if the fiscal year began less than 61 days before such date; or

(B) the first fiscal year beginning after the date of enactment of this Act.

(2) YEARS 2, 3, 4, 5, AND 6.—The terms ''year 2'', ''year 3'', ''year 4'', ''year 5'', and ''year 6'', mean, respectively, the first, second, third, fourth, and fifth fiscal years following year 1.

TITLE I—NATIONAL PASSENGER RAIL SERVICE RESTRUCTURING

SEC. 101. BOARD OF DIRECTORS OF AMTRAK.

Section 24302 of title 49, United States Code, is amended to read as follows:

''§ 24302. Board of directors

''(a) MEMBERSHIP.—

''(1) IN GENERAL.—Until the board of directors provided for in subsection (f) assumes operational responsibility and control, the board of directors of Amtrak shall be the transition board provided for by this subsection.

''(2) TRANSITION BOARD.—The transition board of directors of Amtrak shall consist of 11 voting members, including—

''(A) the Secretary of Transportation, or an officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary; and

''(B) 10 other members appointed by the President, by and with the advice and consent of the Senate.

''(3) PRESIDENT OF AMTRAK.—The President of Amtrak shall serve as an ex officio, nonvoting, member of the transition board of directors.

''(b) COMPENSATION.—Members of the transition board of directors shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

''(c) TERM OF OFFICE.—Members serving un-expired terms on the date of enactment of the Passenger Rail Investment Reform Act may continue to serve until the earlier of the expiration of their terms or the date on which the restructuring mandated under section 24310 of this title is implemented. Members appointed by the President under subsection (a)(1)(B) shall serve for a term that expires on the date the restructuring mandated in section 24310 of this title is implemented. At the expiration of their terms, members of the Board shall be eligible to serve as members of the boards of successor corporations to Amtrak.

''(d) QUORUM.—At any time after the date of enactment of the Passenger Rail Investment Reform Act, a majority of the transition board members who have been lawfully appointed shall constitute a quorum for purposes of conducting board meetings and making all necessary decisions regarding the operations, structure, and business affairs of Amtrak.

''(e) ASSET TRANSITION COMMITTEE.—

''(1) IN GENERAL.—The transition board of directors shall form an asset transition committee comprised of the Secretary or the Secretary's designee, and 2 other members, or 1 other member if 2 other members are not lawfully appointed.

''(2) POWERS AND DUTIES.—In addition to other powers and duties assigned by the board, the Asset Transition Committee has the duty to ensure that the public interest is served in board decisions and Amtrak management actions that change the use of or status of—

''(A) the contractual right of access of Amtrak to rail lines of other railroads;

''(B) Amtrak secured debt;

''(C) Northeast Corridor real property and assets; and

''(D) rolling stock.

''(3) APPROVAL REQUIRED.—The board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit an Amtrak management action with regard to those assets, that is not approved by the asset transition committee.

''(f) BOARD AFTER RESTRUCTURING COMPLETED.—

''(1) IN GENERAL.—Upon the commencement of operations of the Passenger Rail Service Provider and the Passenger Rail Infrastructure Manager established under section 24310 of this title, the board of directors of Amtrak shall consist of—

''(A) the Secretary of Transportation;

''(B) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

''(C) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary.

''(2) TRANSITION BOARD DIRECTORS SHIFTED.—When the board of directors provided for in paragraph (1) takes office, the members of the transition board of directors, with the exception of the Secretary of Transportation, shall—

''(A) cease to serve as appointees of the President to the transition board of directors; and

''(B) become members of the board of directors of the Passenger Rail Service Provider or the Passenger Rail Infrastructure Manager established under section 24310 of this title.''.

SEC. 102. PASSENGER RAIL SERVICE RESTRUCTURING.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by inserting after section 24309 the following:

''§ 24310. Amtrak restructuring mandate

''(a) IN GENERAL.—Within 6 months after year 1 begins, and notwithstanding any other provision of this title, the transition board of directors shall prepare a plan to restructure Amtrak management, personnel, assets, operations, and other activities and relationships to conform to the requirements of this section. The board shall transmit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the House of Representatives and Senate.

''(b) MINIMUM REQUIREMENTS.—At a minimum, the restructuring plan shall provide for the following:

''(1) ARTICLE OF INCORPORATION FOR 2 NEW ENTITIES.—The filing of appropriate articles of incorporation under State law for 2 business corporations that are entirely independent of Amtrak, 1 of which shall be known as the 'Passenger Rail Service Provider' and the other of which shall be knows as the 'Passenger Rail Infrastructure Manager', and referred to collectively as the 'successor corporations'.

''(2) TRIFURCATION OF AMTRAK.—The division of Amtrak into 3 functionally independent entities as follows:

''(A) A corporation, hereinafter referred to as 'Amtrak', that shall provide overall supervision of Amtrak restructuring and subsequent management of residual responsibilities, including succeeding to the legal rights of the National Railroad Passenger Corporation, and including specifically Amtrak's legal right of access to other railroads, following transfer of rail operations and infrastructure management to the successor corporations established under paragraph (1).

''(B) A corporation that shall provide passenger rail operating services nationwide, including operation of the reservation centers and ownership and management of existing rolling stock and its maintenance.

''(C) A corporation that shall provide passenger rail infrastructure management.

''(3) ASSIGNMENT OF AMTRAK PERSONNEL.—The assignment of all Amtrak personnel by name to one of the entities specified in paragraph (2), with no loss of pay or benefits, including seniority rights to employment within any entity, except that an employee who elects employment with the corporation described in paragraph (2)(A) shall become an employee of that corporation, with only such rights regarding pay and benefits as the corporation shall determine.

''(4) The division of accounting, finance, budget, assets, and personnel to provide for the operation and funding of each entity independently.

''(5) A transition schedule that provides for completion of the restructuring not later than the last day of year 1.

''(c) SUCCESSOR CORPORATIONS.—

''(1) Consistent with the business corporation law of the State of incorporation of the successor corporations under subsection (b)(1), each of the successor corporations shall be qualified to undertake railroad activities of an operational or infrastructure nature on a contractual basis with Amtrak or any other entity.

''(2) The Passenger Rail Service Provider—

''(A) shall have the exclusive right, until the last day of year 3, to continue to provide the intercity passenger service that is being provided by Amtrak on the date of enactment of the Passenger Rail Investment Reform Act, but after the last day of year 1, may operate such passenger rail service only under a contract; and

''(B) shall provide interline reservations services to any other provider of intercity passenger rail services on the same basis and rates as services are provided to the operational entities that provide service within Amtrak on the date of enactment of that Act.

''(3) The Passenger Rail Infrastructure Manager—

''(A) shall have the exclusive right, until the last day of year 6, to continue to provide the dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Passenger Rail Investment Reform Act, but after the last day of year 1, may provide these services only under a contract; and

''(B) shall carry out the multi-year infrastructure plan prepared by Amtrak to the extent that funds are made available.

''(4)(A) The successor corporations are not a department, agency, or instrumentality of the United States Government nor are they Government corporations (as defined in section 103 of title 5).

''(B) Chapter 105 of this title does not apply to the successor corporations, except that—

''(i) laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to chapter 105 apply to the successor corporations; and

''(ii) the employee retirement, annuity, and unemployment systems that apply to a rail carrier providing transportation subject to chapter 105 apply to the corporation described in subsection (b)(2)(A).

''(C) Subsections (c) through (l) of section 24301 of this title shall apply to the successor corporations.

''(5) Subject to further action by the board of directors, the president of Amtrak on the date of enactment of the Passenger Rail Investment Reform Act shall be offered the position of chief executive officer of the Passenger Rail Service Provider.

''(6) The contractual rights of successor corporations to provide services may not be extended beyond the dates set forth in paragraphs (2) and (3), as applicable, without competitive bid.

''(7) The Passenger Rail Service Provider shall provide to the Secretary of Transportation not later than the end of year 2, recommendations on the feasibility, advantages, and disadvantages of separation of the reservation centers into a free-standing entity that can become an element of an intermodal reservations service.

''(8) The corporation described in subsection (b)(2)(A) shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

''(d) ROLLING STOCK AND SHOPS.—

''(1) With respect to any route on which intercity passenger rail service is provided on the date of enactment of the Passenger Rail Investment Reform Act, the Passenger Rail Service Provider shall make available to any replacement operator the legacy equipment that is associated with the service on the route.

''(2) Such equipment and services shall be made available on such terms as Amtrak determines are fair, reasonable, and in the public interest.

''(e) FREIGHT AND COMMUTER OPERATIONS.—

''(1) Amtrak shall ensure that the implementation of the restructuring prescribed in this section gives due consideration to the needs of freight and commuter rail operations that, as of the effective date of the Passenger Rail Investment Reform Act, operate in the Northeast Corridor on Amtrak right of way.

''(2) Notwithstanding paragraph (1), commuter services headquartered in a State or Commonwealth that is not a member of the Northeast Corridor Compact after the last day of year 2, shall pay the fully allocated costs incurred by the successor corporation or any successor entity for access to and use of the Northeast Corridor for such services.

''(3) The right of access by Amtrak to rail lines owned by other carriers is, as of the date of enactment of the Passenger Rail Investment Reform Act, restricted as follows:

''(A) The terms and conditions for operation of an intercity passenger rail route or frequency to be added after that date shall be determined by negotiation and mutual agreement between the host railroad and the operator of the route or frequency sought to be added, with no preferential right of access.

''(B) If not utilized by Amtrak, Amtrak's right of access to any segment of rail line owned by another rail carrier may be assigned to no more than 1 intercity passenger rail operator during the term of the assignment, except by agreement among Amtrak, its assignee, and the owner of the rail line.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by inserting the following after the item relating to section 24309:

''24310. Amtrak restructuring mandate''.

SEC. 103. NORTHEAST CORRIDOR COMPACT.

(a) CONSENT TO COMPACT.—

(1) IN GENERAL.—The States and the District of Columbia that constitute the Northeast Corridor, as defined in section 24102 of title 49, United States Code, may enter into a multistate compact, not in conflict with any other law of the United States, to be known as the Northeast Corridor Compact, to provide passenger rail service and to conduct related activities in the Northeast Corridor.

(2) CONGRESSIONAL APPROVAL REQUIRED.—The Northeast Corridor Compact shall be submitted to Congress for its consent. It is the sense of the Congress that rapid consent to the Compact is a priority matter for the Congress.

(b) COMPACT COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the Northeast Corridor Compact Commission. The Commission shall be composed of—

(A) 2 members (or their designees), to be selected by the Secretary of Transportation;

(B) 2 members (or their designees), to be selected by agreement of—

(i) the governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts (hereinafter referred to as the ''participating States''); and

(ii) the mayor of the District of Columbia; and

(C) 1 member to be selected by the 4 members selected under subparagraphs (A) and (B).

(2) ADMINISTRATIVE PROVISIONS.—

(A) Members of the Commission shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(G) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(c) FUNCTIONS.—

(1) The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for—

(A) full authority for 99 years to succeed to the responsibilities of the National Railroad Passenger Corporation as operator of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation;

(B) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions;

(C) responsibility for Corridor maintenance and improvement;

(D) operation of intercity passenger rail service;

(E) arrangements for operation of freight railroad operations and commuter operations;

(F) assumption of financial responsibility for Northeast Corridor functions;

(G) authority to make use of the Corridor for non-rail purposes; and

(H) participation by the Department of Transportation, as the non-voting representative of the United States.

(2) The compact terms shall, at a minimum, conform to the requirements of subsections (e) through (i) of this section.

(d) FINAL COMPACT PROPOSAL.—

(1) The Commission shall submit a final compact proposal to participating States, the District of Columbia, and the Federal Government not later than the last day of year 1.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.—

(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the participating States and the District of Columbia and for non-voting representation for the Secretary of Transportation as an ex officio member participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each compact member and shall provide for its management of rail services in the Northeast Corridor.

(f) EMPLOYEE INTEREST REQUIREMENTS FOR COMPACT.—The employee provisions of the compact shall, at a minimum, provide the following with regard to employees in the Northeast Corridor if the Compact chooses to replace the successor corporations for operation and maintenance of the physical plant or operation of passenger trains, or both:

(1) Payment of any labor protection payments owed and not paid by the successor corporations established under section 24310(b) of title 49, United States Code.

(2) In the case of an employee who is employed by the National Railroad Passenger Corporation on the date of enactment of the Passenger Rail Investment Reform Act and who accepts employment by a successor corporation, a right of first refusal to accept a substantially similar position with the replacement operator when the successor corporation is replaced.

(g) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.—The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(h) COMPACT BORROWING AUTHORITY.—

(1) The borrowing authority provisions of the Compact may authorize it to issue bonds or other debt instruments from time to time at its discretion for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the Compact may be secured only by revenues to the Compact and may not be a debt of a participating State, the District of Columbia, or the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of part C of subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(i) ADOPTION OF COMPACT; TURNOVER.—

(1) The participating States and the District of Columbia shall adopt a final compact agreement not later than the last day of year 2, and the Compact shall thereafter assume responsibility for all Northeast Corridor operations from the successor corporations on a date that is not later than 8 months following adoption of the Compact.

(2) In the event that the participating States and the District of Columbia do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation shall assume control of the corporation described in section 24310(b)(2)(A) of title 49, United States Code, and shall make such legislative recommendations as the President judges necessary and expedient to Congress that address the monetary contributions by Northeast Corridor states and the District of Columbia that would be necessary to provide continued intercity passenger rail service in the Northeast Corridor.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out the purposes of this section.

SEC. 104. ASSISTANCE TO ADDRESS CAPITAL NEEDS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation, for capital expenditures in compliance with capital spending plans developed under section 202 of this Act, including the Secretary's expenses related thereto, the following amounts:

(1) Such sums as may be necessary for year 3.

(2) Such sums as may be necessary for year 4.

(3) Such sums as may be necessary for year 5.

(4) Such sums as may be necessary for year 6.

(b) OBLIGATION OPTIONS.—

(1) Subject to paragraph (2), the Secretary may obligate the funds authorized by this section through grants to or cooperative agreements with States, the Passenger Rail Service Provider, the Northeast Corridor Compact or another qualified Compact, or through contracts with private companies.

(2) Funds appropriated under this section shall not be obligated and not be disbursed from the Treasury for the Northeast Corridor Compact until it has been established and is empowered and qualified to enter into contracts for the expenditure of the funds.

(c) ELIGIBILITY OF EXPENDITURES.—

(1) The Federal share of expenditures for capital improvements under this section may be not more than 100 percent and is solely authorized for the purpose of funding deferred maintenance, safety, and security projects. Expenditures for capacity expansion are not authorized by this section.

(2) Funds appropriated under this section may be obligated for an expenditure only if the Secretary has determined in writing that the expenditure on any railroad infrastructure investments is limited to a route or routes with a useful life of at least 5 years.

SEC. 105. EMPLOYEE TRANSITION ASSISTANCE; AUTHORIZATION.

(a) PROVISION OF FINANCIAL INCENTIVES.—To facilitate the restructuring required by this title, the Secretary is authorized to develop a program under which the Secretary may, at the Secretary's discretion, provide grants for financial incentives to be provided to employees of the National Railroad Passenger Corporation who voluntarily terminate their employment with the Corporation or the successor corporations (as such term is used in section 24310(b)(1) of title 49, United States Code) and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation or the successor corporations.

(b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, the Corporation or the successor corporations shall certify that—

(1) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(2) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

(3) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(c) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may not exceed $50,000 per employee.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to make grants to the National Railroad Passenger Corporation or the successor corporations to fund termination-related payments to employees under existing contractual agreements from the first day of year 1 through the last day of year 4.

SEC. 106. LIMIT ON OPERATING ASSISTANCE FOR LONG-DISTANCE ROUTES.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Limit on operating assistance for long-distance routes

''(a) GENERAL AUTHORITY.—

''(1) GRANT AUTHORITY.—After the last day of year 1, the Secretary of Transportation may make grants for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of long-distance routes and corridor feeder routes for the operating expenses incurred in operating those routes to provide intercity passenger rail transportation.

''(2) CONDITIONS.—A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement and documentation of eligible operating losses on a quarterly basis.

''(b) FEDERAL SHARE OF OPERATING EXPENSES.—

''(1) IN GENERAL.—No funds appropriated to carry out this section may be used to fund operating expenses of a long-distance route after the last day of year 1, except as provided in paragraph (2).

''(2) REIMBURSABLE AMOUNT FOR YEARS 2, 3, AND 4.—The Secretary may reimburse an operator of a long-distance route or a corridor feeder route for operating expenses on that route that do not exceed the operating losses on that route and are not more than—

''(A) $0.40 per-passenger mile during year 2;

''(B) $0.20 per-passenger mile during year 3; or

''(C) $0.10 per-passenger mile during year 4.

''(3) TERMINATION AFTER YEAR 4.—The Secretary may not reimburse an operator of a long-distance route or a corridor feeder route for operating expenses under this section after year 4.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, including administrative costs.''.

(b) CONFORMING AMENDMENTS.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''24316. Limit on operating assistance for long-distance routes''.

SEC. 107. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively;

(2) by inserting after paragraph (4) the following:

''(5) 'corridor feeder route' means a portion of a long distance train or route that provides services between regional corridors by connecting to endpoints of the corridors.'';

(3) by redesignating paragraphs (7) through (10), as redesignated, as paragraphs (9) through (12), respectively;

(4) by inserting after paragraph (6), as redesignated, the following:

''(7) 'legacy equipment' means the rolling stock required to provide intercity passenger rail service owned or leased by the National Railroad Passenger Corporation on the date of enactment of the Passenger Rail Investment Reform Act.

''(8) 'long distance train' or 'long distance route' means all or a portion of the following trains or routes operated by the National Railroad Passenger Corporation on the date of enactment of the Passenger Rail Investment Reform Act:

''(A) The Silver Star.

''(B) The Three Rivers.

''(C) The Cardinal.

''(D) The Silver Meteor.

''(E) The Empire Builder.

''(F) The Capitol Limited.

''(G) The California Zephyr.

''(H) The Southwest Chief.

''(I) The City of New Orleans.

''(J) The Texas Eagle.

''(K) The Sunset Limited.

''(L) The Coast Starlight.

''(M) The Lake Shore Limited.

''(N) The Palmetto.

''(O) The Crescent.

''(P) The Pennsylvanian.

''(Q) The Auto Train.; and

(5) by adding at the end the following:

''(13) 'year 1' means the earlier of—

''(A) the fiscal year in which the Passenger Rail Investment Reform Act is enacted if the fiscal year began less than 61 days before such date; or

''(B) the first fiscal year beginning after the date of enactment of that Act.

''(14) 'year 2', 'year 3', 'year 4', 'year 5', and 'year 6', mean, respectively, the first, second, third, fourth, and fifth fiscal years following year 1.''.

SEC. 108. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW.

(a) IN GENERAL.—Title 49, United States Code, is amended by repeal of the following sections:

(1) Section 24701.

(2) Section 24706.

(3) Section 24901.

(4) Section 24902.

(5) Section 24904.

(6) Section 24906.

(7) Section 24909.

(b) AMENDMENT OF SECTION 24305.—Section 24305 of title 49, United States Code, is amended—

(1) by striking paragraph (2) of subsection (a) and redesignating paragraph (3) as paragraph (2);

(2) by striking paragraph (4) of subsection (b) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(3) by inserting ''With regard to items acquired with funds provided by the Federal Government,'' before ''Amtrak'' in subsection (f)(2).

(c) CONFORMING AMENDMENTS.—The chapter analyses for chapters 243, 247, and 249 or title 49, United States Code, are amended, as appropriate, by striking the items relating to sections 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of year 1.

TITLE II—FINANCIAL REFORMS

SEC. 201. LIMITATIONS ON AVAILABILITY OF GRANTS.

(a) IN GENERAL.—Chapter 43 of title 49, United States Code, is amended by inserting after section 24313 the following:

"§ 24314. Transitional limitations on availability of grants

''(a) REQUIREMENTS PRIOR TO RESTRUCTURING.—A grant made to the National Railroad Passenger Corporation under the authority of this part between the first day of year 1, and the establishment and commencement of operations by the successor corporations under section 24310 of this title may only be made subject to the following limitations:

''(1) The Secretary of Transportation shall not disburse funding to cover operating losses on a long-distance train route without first receiving and approving a grant request for that specific train route.

''(2) Each such grant request shall be accompanied by a detailed financial analysis and revenue projection justifying the Federal support to the Secretary's satisfaction.

''(3) The Secretary of Transportation and the board of directors of the Corporation

shall ensure that, of the amount made available by appropriations for capital and operating assistance to the Corporation in a fiscal year, sufficient sums are reserved to satisfy the contractual obligations of the Corporation to provide commuter and intrastate passenger rail service.

''(4) Not later than December 31 prior to each fiscal year in which grants are made to the Corporation, the Corporation shall transmit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) of this title 49.

''(5) The business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

''(6) Each month of each fiscal year in which grants are made to the Corporation, the Corporation shall submit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a supplemental report regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

''(7) A grant that is not approved by the Secretary of Transportation and an element of the Corporation's current fiscal year business plan may not be used for operating expenses or capital projects, and may not be obligated or expended unless the Corporation certifies, as part of the grant agreement, that it has complied with and will abide by the following requirements:

''(A) The Corporation's management will maintain financial controls and accounting transparency to the satisfaction of the Secretary, including developing or enhancing any existing capacity separately to report—

''(i) all revenue and expenses associated with rail operations by route; and

''(ii) budgeted and actual expenditures for all capital investments.

''(B) The Corporation's management will provide a monthly performance report to the board of directors, the Secretary of Transportation, and the committees of Congress described paragraph (6). The Corporation shall also make available to the Secretary the same details and reports on its financial performance that it makes available to Amtrak management, at the same time that it provides those reports and details to Amtrak management.

''(C) The Corporation shall expend funds only for the continuation of existing plants and services. With the exception of expenditures for which it obtains written approval from the Secretary of Transportation, the Corporation will not use of any of its funds for expansion or planning for expansion of rail service, including high speed rail service.

''(D) The Corporation has negotiated with its employees substantial operating cost reductions needed to make its operations competitive with private-sector service providers.

''(b) REQUIREMENTS FOLLOWING RESTRUCTURING.—Any grant made directly to a successor corporation (as such term is used in section 24310(b)(1)) under the authority of this part may only be made subject to the following limitations:

''(1) The Secretary of Transportation shall not disburse funding to cover operating losses on a long-distance train route without first receiving and approving a grant request for that specific train route.

''(2) Each such grant request shall be accompanied by a detailed financial analysis and revenue projection justifying the Federal support to the Secretary's satisfaction.

''(3) The Secretary shall ensure that, of the amount made available by appropriations for capital and operating assistance in a fiscal year, sufficient sums are reserved to satisfy the successor corporation's contractual obligations, if any, with respect to commuter and intrastate passenger rail service.

''(4) Not later than December 31 prior to each fiscal year in which grants are made, the successor corporations shall each transmit to the Secretary of Transportation a business plan for operating and capital improvements to be funded in the fiscal year.

''(5) The business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

''(6) Each month of each fiscal year in which grants are made, the successor corporations shall each submit to the Secretary a supplemental report regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

''(7) A grant that is not approved by the Secretary of Transportation and an element of the Corporation's current fiscal year business plan may not be used for operating expenses or capital projects, and may not be obligated or expended unless the Corporation certifies, as part of the grant agreement, that it has complied with and will abide by the following requirements:

''(A) Management will maintain financial controls and accounting transparency to the satisfaction of the Secretary, including developing or enhancing any existing capacity separately to report—

''(i) all revenue and expenses associated with rail operations by route; and

''(ii) budgeted and actual expenditures for all capital investments.

''(B) Management of each successor corporation shall make available to the Secretary the same details and reports on its financial performance that it makes available internally, at the same time that it provides those reports and details internally.

''(C) Funds will be spent only on existing plants and services.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by inserting after the item relating to section 24313 the following:

''24314. Transitional limitations on availability of grants''.

SEC. 202. SPENDING PLANS FOR CAPITAL BACKLOG REDUCTION.

(a) IN GENERAL.—Within 6 months after year 1 begins, and as a condition of grants to the National Railroad Passenger Corporation between that date and the implementation of the restructuring required under section 24310 of title 49, United States Code, the Corporation shall prepare a capital spending plan that addresses capital needs, consistent with the funding levels authorized to be provided for year 1 and each fiscal year thereafter through year 6, for—

(1) Northeast Corridor capital assets;

(2) capital assets on long-distance routes other than on the Northeast Corridor; and

(3) capital assets on short-distance routes other than the NortheastCorridor.

(b) APPROVAL BY THE SECRETARY AND THE COMPACT.—

(1) IN GENERAL.—The Corporation shall submit the capital spending plan prepared under subsection (a) to the Secretary of Transportation for review and approval. The plan shall be implemented only after approval by the Secretary, and with any modifications specified by the Secretary.

(2) ANNUAL UPDATES.—The plan shall be updated and resubmitted at least annually.

(3) NO PLAN NO GRANT.—After creation of Northeast Corridor Compact, the Secretary may not make a grant to the Compact for capital investments except in accordance with a capital spending plan prepared by the Compact and approved by both the Compact and the Secretary. The same requirements shall apply to grants made to States and other Compacts under this section.

SEC. 203. REDEMPTION OF COMMON STOCK.

(a) VALUATION.—The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all assets and liabilities of the Corporation to be performed by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. The valuation shall be conducted in accordance with criteria and requirements to be determined by the Secretary in the Secretary's discretion and shall be completed within 6 months after year 1 begins.

(b) REDEMPTION.—

(1) Prior to the transfer of assets to the Secretary directed by section 204 of this Act, and within 9 months after year 1 begins, the Corporation shall redeem all common stock in the Corporation issued prior to the date of enactment of this Act at the value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of the Corporation.

(c) ACQUISITION THROUGH EMINENT DOMAIN.—In the event that the Corporation and the owners of its common stock have not completed the redemption of such stock by a date that is within 9 months after year 1 begins, the Corporation shall exercise its right of eminent domain under section 24311 of title 49, United States Code, to acquire that stock. The valuation performed under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF SECTION 24311.—Section 24311(a)(1) of title 49, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by striking ''Amtrak.'' in subparagraph (B) and inserting ''Amtrak; or''; and

(3) by adding at the end the following:

''(C) necessary to redeem the Corporation's common stock from any holder thereof, including a rail carrier.''.

(e) CONVERSION OF PREFERRED STOCK TO COMMON.—

(1) Subsequent to the redemption of the common stock in the corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of the Corporation retained under section 204 of this Act for 10 shares of common stock in the Corporation.

(2) The Corporation shall not issue any other common stock without the express written consent of the Secretary.

SEC. 204. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.

(a) TRANSFER.— Not later than 30 days after the redemption or acquisition of stock

under section 203 of this Act, the Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to the following assets:

(1) The portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets, including the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels and all other improvements owned by Amtrak between Boston, Massachusetts, and Washington, District of Columbia (including the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline).

(2) Chicago Union Station and rail-related assets in the Chicago metropolitan area.

(3) All other track and right-of-way, stations, repair facilities, and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.—(1) With regard to any assets described in subsection (a) that the Corporation has provided as security or collateral for a debt entered into prior to the date of enactment of this Act, the Corporation shall transfer its underlying legal interest in such asset to the Secretary, but the Corporation shall remain liable for the debt secured by the asset.

(2) The obligation of the National Railroad Passenger Corporation to repay in full any indebtedness to the United States incurred since January 1, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.—In consideration for the assets transferred to the United States under subsection (b), the Secretary shall—

(1) deliver to the Corporation all but 1 share of the preferred stock of the Corporation held by the Secretary and forgive the Corporation's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) Release the Corporation from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.—Prior to accepting title to the assets transferred under this section, the Secretary shall enter into an agreement with the Corporation under which the Corporation will exercise on behalf of the Secretary care, custody, and control of the assets to be transferred. The agreement shall identify in detail the specific functions of the Corporation's employees and equipment, and the specific numbers and locations of the employees and equipment associated with each function, that would be needed for continuation of commuter and freight rail service in the event that the Corporation were to cease operation, and identify those actions that would be required to ensure that such functions can be continued on an interim basis to avoid any interruption in commuter or freight rail service on the Northeast Corridor.

(e) FURTHER TRANSFERS.—

(1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying States title to real estate properties owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia, that constitute the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(4) All financial consideration determined by the Secretary to be appropriate consideration for the transfer of the assets described in paragraphs (1) through (3) shall be used exclusively to reduce the Corporation's long-term debt that exists on the date of enactment.

SEC. 205. REAL ESTATE AND ASSET SALES; OTHER.

(a) IN GENERAL.—The Amtrak board of directors shall undertake and complete not later than the last day of year 3, the disposition of all stations, track, and other facilities outside the Northeast Corridor mainline, including property conveyed to the Secretary of Transportation under section 204 of this Act.

(b) PROCEEDS OF LIQUIDATION.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the liquidation of assets under this section shall—

(1) be credited as an offsetting collection to the account that finances grants for debt and interest payments under section 206 of this Act to the Passenger Rail Service Provider established under section 24310 of title 49, United States Code; and

(2) remain available until expended.

SEC. 206. MANAGEMENT AND TRANSFER OF SECURED DEBT.

(a) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation to refinance existing secured debt, the Corporation shall not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by the Corporation or any subsidiary for working capital purposes.

(b) SECURED DEBT TRANSFER.—

(1) Upon establishment of the Passenger Rail Service Provider established under section 24310 of title 49, United States Code, and the transfer of ownership of the existing rolling stock, all debt secured by the rolling stock shall be transferred to and become a liability solely of, the Passenger Rail Service Provider.

(2) Upon establishment of the Northeast Corridor Compact under section 103 of this Act, the secured debt associated with fixed assets in the Northeast Corridor shall be transferred to, and become a liability solely of, the Northeast Corridor Compact.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for grants to the Passenger Rail Service Provider established under section 24310 of title 49, United States Code, to pay principal and interest payments on secured debt existing on the date of enactment of this Act the following amounts:

(A) Such sums as may be necessary in year 2.

(B) Such sums as may be necessary in year 3.

(C) Such sums as may be necessary in year 4.

(D) Such sums as may be necessary in year 5.

(E) Such sums as may be necessary in year 6.

(2) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest secured debt with the proceeds of grants under paragraph (1) on funding authorized by this section shall not—

(A) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(B) change the private nature of Amtrak's or its successors' liabilities; or

(C) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 207. TRANSITION ASSISTANCE.

(a) YEAR 1 ASSISTANCE.—There are authorized to be appropriated to the Secretary of Transportation for grants to the National Railroad Passenger Corporation for operating and capital expenses such sums as may be necessary in year 1.

(b) YEAR 2 SUCCESSOR CORPORATION OPERATING ASSISTANCE.—There are authorized to be appropriated to the Secretary such sums as may be necessary for grants to—

(1) the Passenger Rail Service Provider established under section 24310 of title 49, United States Code, for operating expenses of all services except long-distance trains and routes in year 2; and

(2) the Passenger Rail Infrastructure Manager established under that section for capital expenses in year 2.

(c) ADMINISTRATIVE EXPENSES OF COMPACTS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for grants for the administrative expenses of interstate compacts in years 1 through 3.

(d) EXPENSES OF AMTRAK.— There are authorized to be appropriated to the Secretary such sums as may be necessary for grants for the administrative expenses of Amtrak in years 2 through 6.

(e) GRANTS MADE AFTER YEAR 2.—After the last day of year 2, the Secretary may not enter into a grant agreement under this Act, other than section 206(c), or part C of title V of title 49, United States Code, unless each other party to the grant agreement is a State, regional compact, or other public entity.

TITLE III—GRANTS AND OTHER ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE

SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by inserting after chapter 243 the following:

''CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

''Sec.

''24401. Definitions; effective date

''24402. Capital investment grants to support intercity passenger rail service

''24403. Project management oversight

''24404. Use of capital grants to finance first-dollar liability of grant project

''24405. Authorization of appropriations

"§ 24401. Definitions; effective date.

''(a) DEFINITIONS.—In this chapter:

''(1) APPLICANT.—The term 'applicant' means a State, an Interstate Compact (including the Northeast Corridor Compact as specified in section 103 of the Passenger Rail Investment Reform Act), or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.

''(2) CAPITAL PROJECT.—The term 'capital project' means a project within a corridor plan or program for—

''(A) acquiring, constructing, supervising or inspecting equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements on routes used

for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

''(B) rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service; or

''(C) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service.

''(3) INTERCITY PASSENGER RAIL SERVICE.—The term 'intercity passenger rail service' means transportation services with the primary purpose of passenger transportation between towns, cities, and metropolitan areas by rail, including high-speed rail.

''(b) EFFECTIVE DATE.—This chapter is effective on the first day of year 2.

''§ 24402. Capital investment grants to support intercity passenger rail service

''(a) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary of Transportation may make grants under this section to an applicant to assist in financing the capital costs of facilities and equipment necessary to provide intercity passenger rail transportation.

''(2) TERMS AND CONDITIONS.—The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

''(3) LIMITATION.—A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

''(b) PROJECT AS PART OF APPROVED PROGRAM.—

''(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 5303 of this title and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

''(2) ELIGIBILITY INFORMATION.—An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

''(3) PROPOSED OPERATOR JUSTIFICATION.—If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not increase the capital cost of the project.

''(4) RAIL AGREEMENT.—An applicant shall demonstrate that it has agreed with the railroad over which the intercity passenger rail service will operate concerning the applicant's operating and capital plans.

''(c) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

''(1) LETTER OF INTENT.—

''(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

''(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the House of Representatives and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, or an administrative commitment.

''(D) An obligation or administrative commitment may be made only when amounts are appropriated.

''(2) FULL FUNDING AGREEMENT.—

''(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

''(i) establish the terms of participation by the United States Government in a project under this section;

''(ii) establish the maximum amount of Government financial assistance for the project;

''(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the law of the United States.

''(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government and is subject to subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(3) EARLY SYSTEMS WORK AGREEMENT.—

''(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

''(i) a full funding grant agreement for the project will be made; and

''(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

''(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

''(4) LIMIT ON TOTAL OBLIGATIONS AND COMMITMENTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements may be not more than the amount authorized under section 24405 of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

''(d) FEDERAL SHARE OF NET PROJECT COST.—

''(1) IN GENERAL.—

''(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

''(B) A grant for the project shall not exceed the specified percentage of the project net capital cost established for the year the grant is approved, as follows:

''(i) 100 percent in the case of approval for year 2.

''(ii) 80 percent in the case of approval for year 3.

''(iii) 60 percent in the case of approval for year 4.

''(iii) 50 percent in the case of approval for year 5, and thereafter.

''(C) The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower federal share of the project net capital cost.

''(2) ADDITIONAL FUNDING.—Up to an additional 30 percent of project net capital cost may be funded from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

''(e) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) IN GENERAL.—The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

''(A) the applicant applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out a part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

''(2) INTEREST COSTS.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. The amount of interest includable as cost under this paragraph may not be more

than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

''(3) USE OF COST INDICES.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

''§ 24403. Project management oversight

''(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant shall prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

''(1) adequate recipient staff organization with well-defined reportingrelationships, statements of functional responsibilities, job descriptions, and job qualifications;

''(2) a budget covering the project management organization, appropriateconsultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

''(3) a construction schedule for the project;

''(4) a document control procedure and recordkeeping system;

''(5) a change order procedure that includes a documented, systematicapproach to handling the construction change orders;

''(6) organizational structures, management skills, and staffing levelsrequired throughout the construction phase;

''(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

''(8) material testing policies and procedures;

''(9) internal plan implementation and reporting requirements;

''(10) criteria and procedures to be used for testing the operationalsystem or its major components;

''(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

''(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

''(b) SECRETARIAL OVERSIGHT.—

''(1) IN GENERAL.—The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

''(2) USE OF FUNDS.—The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

''(3) FEDERAL SHARE.—The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

''(c) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

''(d) REGULATIONS.— The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

''(1) a definition of 'major capital project' for this section;

''(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight;

''(3) a deadline by which all grant applications for a fiscal year shall be submitted that is early enough to permit the Secretary to evaluate all timely applications thoroughly before making grants;

''(4) a formula based on population, track miles of railroad, and passenger miles traveled in the prior fiscal year by which one-half of the funds appropriated for capital grants for each fiscal year are to be allocated among the States;

''(5) a requirement that, if a State does not timely apply for its share of formula grant funds under paragraph (4) of this subsection, those funds will be made available to other States under paragraph (6) of this subsection; and

''(6) criteria by which the Secretary will allocate one-half of the funds appropriated for capital grants for each fiscal year, including at least projected ridership, passenger rail and intermodal connections, congestion and air quality mitigation, underserved communities, and the effect of the grant on whether existing service will continue.

''§ 24404. Use of capital grants to finance first-dollar liability of grant project.

''Notwithstanding the requirements of section 24402 of this title, the Secretary of Transportation may approve the use of capital assistance under this chapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the capital assistance grant, but the coverage may not exceed $20,000,000 per occurrence or $20,000,000 in aggregate per year.

''§ 24405. Authorization of appropriations.

''There are authorized to be appropriated to the Secretary of Transportation to make capital financial assistance grants under this chapter, including administrative expenses, the following amounts:

''(1) Such sums as may be necessary in year 2.

''(2) Such sums as may be necessary in year 3.

''(3) Such sums as may be necessary in year 4.

''(4) Such sums as may be necessary in year 5.

''(5) Such sums as may be necessary in year 6.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of chapters for title 49, United States Code, is amended by inserting the following after the item relating to chapter 243:

''244. INTERCITY PASSENGER RAIL SERVICE CAPITAL ASSISTANCE ..... 24401''.

(2) The chapter analysis for subtitle V of title 49, United States Code, is amended by inserting the following after the item relating to chapter 243:

''244. Intercity Passenger Rail Service Capital Assistance ..... 24401''.

SEC. 302. FINAL REGULATIONS ON APPLICATIONS BY STATES FOR DEVELOPMENT GRANTS.

Not later than June 1 of year 1, the Administrator of the Federal Railroad Administration shall issue final regulations setting forth procedures for application and minimum requirements for the award of grants on and after the first day of year 2, under chapter 244 of title 49, United States Code.

SEC. 303. AUTHORITY FOR INTERSTATE COMPACTS FOR CORRIDOR DEVELOPMENT.

(a) CONSENT TO COMPACTS—

(1) 2 or more States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) may enter into interstate compacts to implement the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including-

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of rolling stock; and

(iii) operational improvements, including communications, signals, and other systems.

(2) A compact entered into under the authority of this section shall be submitted to Congress for its consent. It is the sense of Congress that rapid consent to the Compact is a priority for the Congress.

(b) FINANCING.—

(1) An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(2) Bonds and other indebtedness incurred under the authority of this subsection shall under no circumstances be backed by the full faith and credit of the United States.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1502. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1503. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing two bills today with Senator DOMENICI to address a technical problem with H.R. 2854 that potentially causes problems for the State of New Mexico. We continue to believe that New Mexico meets the definition of a ''qualifying state'' under the legislative language but introduce these two bills to clarify that New Mexico is such a State. I ask unanimous consent that the text of both bills to be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1502

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

SECTION 1. TECHNICAL CORRECTION RELATING TO THE DEFINITION OF QUALIFYING STATE UNDER TITLE XXI OF THE SOCIAL SECURITY ACT.

Effective as if included in the enactment of H.R. 2854, 108th Congress, section 2105(g)(2) of the Social Security Act, as added by section 1(b) of H.R. 2854, 108th Congress, as passed by the House of Representatives on July 25,

2003, is amended by inserting before the period ''and includes New Mexico''.

S. 1503

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

SECTION 1. TECHNICAL CORRECTION RELATING TO THE DEFINITION OF QUALIFYING STATE UNDER TITLE XXI OF THE SOCIAL SECURITY ACT.

Effective as if included in the enactment of H.R. 2854, 108th Congress, section 2105(g)(2) of the Social Security Act, as added by section 1(b) of H.R. 2854, 108th Congress, as passed by the House of Representatives on July 25, 2003, is amended by inserting ''(as determined by rounding to nearest whole percentage)'' after ''percent'' the first place it appears.

By Mrs. HUTCHISON (for herself, Mr. LOTT Mr. BURNS, and Ms. SNOWE):

S. 1505. A bill to establish a National Passenger Rail Office, and for other purposes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I support Amtrak and believe we can have a viable national passenger rail system. Unfortunately, we are far from realizing that goal. Outside the Northeast Corridor (NEC), trains seldom run on time, and service is abysmal. Lateness is often measured in days, not hours. Several years ago, when the airlines on-time rate fell below 75 percent it was considered a national emergency. At Amtrak, on-time records under 50 percent are business as usual. Rail critics point to low ridership as the reason why we starve the national system. I contend that starvation is the reason for low ridership.

In the Northeast, a passenger can board a train here at Union Station and reasonably expect to be in New York City, about 225 miles away, in less than three hours. If one of my constituents buy a ticket from Austin to Fort Worth, a trip thirty-eight miles shorter than DC to New York, the best he can expect is that it will take four and one-half hours. Of course, the Texas Eagle makes its schedule only 35 percent of the time, so my constituent will likely waste even more time on this short trip. An Austin businessman may prefer not to deal with airport hassles for such a short flight, and he may want to avoid the traffic on I–35, but the train is not a reasonable option if he has a meeting in fort worth at a time certain.

This inequity cannot continue. Either we commit to building a rail transportation alternative for the entire Nation, or we abandon the pretense of Amtrak and turn it over to the States and private companies. Our motto for Amtrak is ''National or Nothing!''

Improving service on the national system will require creative thinking and innovative financing. We cannot continue to fund Amtrak just enough to keep it going until the next crisis. That is a road map for failure. Private investment, State participation, and the cooperation of the freight railroads are all essential to achieving service upgrades.

In Texas, most passenger trains are forced to operate at less than thirty miles per hour due to track conditions and freight operations. The national system needs at least $38 billion in capital improvements to allow trains to meet a reasonable schedule. Safety improvements alone will cost $13.8 billion. The Northeast Corridor needs roughly $10 billion to avoid an increased risk of accidents and a systemwide slowdown. Postponing these upgrades and repairs will only make them more expensive.

In the 1950s, President Eisenhower convinced the Nation to pay for the construction of the National Highway System. Fiscal realities have changed since then, and we must find a way to creatively finance the rail infrastructure needs of the nation without draining resources from alternative modes of transportation and other federal priorities. Municipal bonding and private investment are necessary components of any plan to restore and improve rail infrastructure.

Making this investment will not only improve passenger service, but also upgrade freight operations throughout the country. Outside the NEC, freight and passenger trains must run on the same tracks. In exchange for an investment in upgrading those tracks, the freight must agree to allow Amtrak to meet its schedule. I realize the critical role played by freight railroads in the American economy, and I know this industry has seen better days. That is why I urge them to work with us to achieve a mutually beneficial agreement. If we cooperate, freight railroads will enjoy capital improvements they could not otherwise hope to afford, as we secure the future of passenger rail in this country. It can be a win-win situation.

I was deeply disappointed to see Amtrak's proposed 5-year capital plan call for $9.1 billion in Federal funding, with more than $8 billion spent in the Northeast Corridor. The national system must receive more than the crumbs left over after the needs of the NEC have been met.

We will never have a better opportunity to accomplish this goal than right now. That is why I am introducing legislation along with Senators LOTT, BURNS, SNOWE and SMITH to begin to bring the national system up to Northeast Corridor standards. My bill will strengthen the Federal role by creating a National Passenger Rail Office at DOT, responsible for coordinating with States and the railroads to assure the national system receive the improvements necessary to operate an effective inter-city passenger rail system. The legislation authorizes $12 billion for Amtrak in operating assistance. Amtrak will be required to bring the national system up to an 80 percent on-time arrival rate. Once a route has enjoyed reasonable on-time performance, it can be fairly evaluated from a cost-benefit perspective. 80 percent is a modest goal, but it is not going to be easy to attain. If Amtrak is unable to meet performance requirements on a route, that route should be opened for bidding by other operators.

If we fail to enact real change in this reauthorization bill, we may run out of chances to obtain the elusive intermodal transportation system we profess to seek. We must decide whether we want to create a viable national system, or settle for a single rail corridor providing ever-deteriorating service to only one sector of the country. I will not support any proposal that does not put the national system on par with the Northeast Corridor. Today marks a new beginning, or the beginning of the end. It's national or nothing.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1505

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 ''American Rail Equity Act of 2003''.

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Table of contents.

TITLE I—NATIONAL PASSENGER RAIL OFFICE

Sec. 101. Establishment of National Passenger Rail Office.

TITLE II—NATIONAL PASSENGER RAIL SYSTEM

SUBTITLE A—NATIONAL PASSENGER RAIL SYSTEM

Sec. 201. National passenger rail system.

SUBTITLE B—HIGH-SPEED CORRIDORS FOR PASSENGER RAIL

Sec. 211. Interstate railroad passenger high-speed transportation policy.
Sec. 212. High-speed rail corridor planning.
Sec. 213. Assistance for establishment of corridors for high-speed rail service.

TITLE III—RAIL INFRASTRUCTURE IMPROVEMENT

SUBTITLE A—RAIL INFRASTRUCTURE FINANCE CORPORATION

Sec. 301. Establishment of corporation.
Sec. 302. Board of directors.
Sec. 303. Officers and employees.
Sec. 304. Nonprofit and nonpolitical nature of the corporation.
Sec. 305. Purpose and activities of corporation.
Sec. 306. Report to Congress.
Sec. 307. Administrative matters.
Sec. 308. Rail infrastructure finance trust.

SUBTITLE B—RAIL DEVELOPMENT GRANT PROGRAM

Sec. 311. National system improvement grant program.

Sec. 312. Grant program requirements and limitations.

SUBTITLE C—RAIL INFRASTRUCTURE TAX CREDIT BONDS

Sec. 321. Credit to holders of qualified rail infrastructure bonds.
Sec. 322. Annual report by Treasury on rail infrastructure trust account.
Sec. 323. Issuance of regulations.
Sec. 324. Effective date.

TITLE IV—RAIL INFRASTRUCTURE AND INTERMODAL TRANSPORTATION

Sec. 401. Intermodal transportation policy.
Sec. 402. State rail plans.

TITLE I—NATIONAL PASSENGER RAIL OFFICE

SEC. 101. ESTABLISHMENT OF NATIONAL PASSENGER RAIL OFFICE.

(a) ESTABLISHMENT.—(1) Chapter 1 of title 49, United States Code, is amended by inserting after section 107 the following new section:

"§ 107A. National Passenger Rail Office

''(a) IN GENERAL.—The National Passenger Rail Office is an office in the Department of Transportation.

''(b) HEAD OF OFFICE.—The head of the Office is the Director of the National Passenger Rail Office who is appointed by the President, by and with the advice and consent of the Senate.

''(c) ADMINISTRATIVE MATTERS.—

''(1) ADMINISTRATIVE LOCATION.—The Office is located within the Federal Transit Administration for administrative purposes.

''(2) SUPERVISION.—The Director of the National Passenger Rail Office reports directly to the Administrator of the Federal Transit Administration.

''(d) DUTIES.—The duties of the Office are as follows:

''(1) To carry out the responsibilities of the Office with respect to the national passenger railroad system under chapter 251 of this title, including—

''(A) the allocation of funds to the National Passenger Rail Corporation for the operations of the Corporation under section 25005 of this title;

''(B) the responsibilities for the national passenger railroad system set forth under section 25006 of this title;

''(C) the responsibilities for the national passenger railroad system route map set forth under section 25007 of this title; and

''(D) the quarterly identification of infrastructure improvement projects for the national passenger railroad system under section 25008 of this title.

''(2) To carry out such other responsibilities as may be provided by the Secretary of Transportation or by law.

''(e) FUNDING OF ADMINISTRATIVE EXPENSES.—The amount available under section 25010(c)(1) of this title each fiscal year shall be available for the administrative costs of the Office in such fiscal year.''.

(2) The table of section at the beginning of such chapter is amended by inserting after the item relating to section 107 the following new item:

''107A. National Passenger Rail Office.''.

(b) RATE OF PAY OF DIRECTOR OF OFFICE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Director, National Passenger Rail Office.''.

TITLE II—NATIONAL PASSENGER RAIL SYSTEM

Subtitle A—National Passenger Rail System

SEC. 201. NATIONAL PASSENGER RAIL SYSTEM.

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 251—NATIONAL PASSENGER RAIL SYSTEM

''Sec.
''25001. Purpose.
''25002. National passenger rail system.
''25003. Designation of Amtrak as National Passenger Rail Corporation.
''25004. National Passenger Rail Corporation: responsibility for national passenger rail system; status.
''25005. National Passenger Rail Office: allocation of operating funds to National Passenger Rail Corporation.
''25006. National Passenger Rail Office: responsibility for national passenger rail system.
''25007. National Passenger Rail Office: responsibility for national passenger rail system route map.
''25008. National Passenger Rail Office: identification of rail infrastructure improvement projects for national passenger rail system.
''25009. Rail infrastructure improvements grant program.
''25010. Construction with other law; preservation and allocation of authorities.
''25011. Authorizations.

''§ 25001. Purpose

''The purpose of this chapter is to improve rail passenger service in the United States by—

''(1) redesignating Amtrak as the National Passenger Rail Corporation; and

''(2) reallocating the responsibilities of Amtrak for intercity and commuter rail passenger transportation (and related transportation) among the National Passenger Rail Corporation and the National Rail Passenger Office so that—

''(A) the National Passenger Rail Corporation retains the responsibilities of Amtrak for the provision of such transportation; and

''(B) the National Rail Passenger Office assumes the responsibilities of Amtrak for the equipment and facilities of Amtrak and for the route map of the national passenger rail system.

''§ 25002. National passenger rail system

''(a) IN GENERAL.—The system of intercity rail passenger transportation (and related transportation), known as the national passenger rail system, includes—

''(1) the segment of the Northeast Corridor between Boston, Massachusetts, and Washington, D.C.;

''(2) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

''(3) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the American Rail Equity Act of 2003; and

''(4) short-distance corridors or routes operated by Amtrak.

''(b) TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.—

''(1) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

''(2) DISCONTINUANCE.—Upon termination of a contract entered into under this subsection, or the cessation of financial support under such a contract, Amtrak may discontinue such service or route, notwithstanding any other provision of law.

''§ 25003. Designation of Amtrak as National Passenger Rail Corporation

''Effective as of the date of the enactment of the American Rail Equity Act of 2003, the portion of Amtrak that is responsible for the operations relating to intercity rail passenger transportation and commuter rail passenger transportation (and related transportation) specified in section 25004(b) of this title is hereby redesignated as the National Passenger Rail Corporation.

''§ 25004. National Passenger Rail Corporation: responsibility for national passenger rail system; status

''(a) TERMINATION OF FOR-PROFIT STATUS.—The National Passenger Rail Corporation shall not be required to be operated or managed as a for-profit corporation.

''(b) LIMITATION OF RESPONSIBILITIES TO TRANSPORTATION AND CERTAIN MAINTENANCE FACILITIES.—The Corporation shall have responsibility only for the following:

''(1) Operations relating to the provision of intercity rail passenger transportation.

''(2) Operations relating to the provision of commuter rail passenger transportation.

''(3) Operations relating to the transportation of mail and express.

''(4) Operations relating to auto-ferry transportation.

''(5) Marketing relating to transportation provided under paragraphs (1) through (4).

''(6) Facilities for the maintenance of the rolling stock necessary to provide transportation under paragraphs (1) through (4).

''(c) TRANSFER OF OTHER ASSETS AND RESPONSIBILITIES TO NATIONAL PASSENGER RAIL OFFICE.—The Corporation shall transfer to the National Passenger Rail Office jurisdiction of all equipment and facilities of the Corporation as of the date of the enactment of the American Rail Equity Act of 2003 that are not the responsibility of the Corporation under subsection (b).

''§ 25005. National Passenger Rail Office: allocation of operating funds to National Passenger Rail Corporation

''(a) IN GENERAL.—The National Passenger Rail Office shall, from amounts available for a fiscal year under section 25010(c)(2)(A) of this title, allocate amounts to the National Passenger Rail Corporation in order to permit the Corporation carry out operations for the provision of transportation under section 25004(b) of this title.

''(b) ALLOCATION ON ROUTE-BY-ROUTE BASIS.—The Office shall allocate amounts to the Corporation under subsection (a) on a route-by-route basis.

''(c) OVERSIGHT OF EXPENDITURES.—The Office shall oversee and review expenditures of amounts allocated to the Corporation under subsection (a) in order to ensure that the Corporation is utilizing amounts so allocated in an appropriate manner.

''§ 25006. National Passenger Rail Office: responsibility for national passenger rail system

''(a) NORTHEAST CORRIDOR EQUIPMENT AND FACILITIES.—The National Passenger Rail Office shall have responsibility for all equipment and facilities relating to the Northeast Corridor route that are transferred to the Office under section 25003(c) of this title.

''(b) PENNSYLVANIA STATION, NEW YORK.—The Office shall treat Pennsylvania Station, New York, and the electric power generation facilities at Pennsylvania Station for the Northeast Corridor route, as a part of the Northeast Corridor route under subsection (a).

''(c) OTHER EQUIPMENT AND FACILITIES.—

''(1) OPERATION THROUGH LEASE REQUIRED.—The Office shall provide for the operation of any equipment and facilities transferred to the Office under section 25004(c) of this title that are not the responsibility of the Office under subsections (a) and (b) through the lease of such equipment and facilities to 1 or more appropriate persons or entities.

''(2) FULL AND OPEN COMPETITION.—The Office shall identify any lessee of equipment and facilities under paragraph (1) utilizing procedures for full and open competition.

''§ 25007. National Passenger Rail Office: responsibility for national passenger rail system route map

''(a) IN GENERAL.—The National Passenger Rail Office shall have responsibility for the modification of routes of the National Passenger Rail Corporation.

''(b) FAILURE OF ON-TIME PERFORMANCE.—

''(1) SURVEYS OF ON-TIME PERFORMANCE.—Not later than 12 months after the date of the enactment of this American Rail Equity Act of 2003 and every year thereafter, the Office shall determine for each route of the Corporation whether the Corporation met the on-time performance goal for such route during the most recent performance period.

''(2) CONTINGENT REQUIREMENT TO PRESERVE ROUTES.—The Office may not discontinue a route of the Corporation as in effect on the date of the enactment of that Act unless the Office determines under paragraph (1) in any year that the Corporation did not meet the on-time performance goal for such route in 3 out of the 5 years immediately preceding the year in which the determination is made.

''(3) TRANSPORTATION RIGHTS FOLLOWING FAILURE ON ON-TIME PERFORMANCE.—

''(A) FORFEITURE OF RIGHTS.—If the Office determines (in the determination under paragraph (2) that is required to be completed 5 years after the date of the enactment of the American Rail Equity Act of 2003) that the Corporation did not meet the on-time performance goal for a route of the Corporation during the most recent performance period, the Corporation shall forfeit to the Office the right to provide passenger rail transportation on such route (including the right to use the tracks of such route to provide such transportation).

''(B) LEASE OF FORFEITED RIGHTS.—The Office shall lease to an appropriate person or entity the right to provide passenger rail transportation on a route (including the right to use the tracks of such route to provide such transportation) that is forfeited under subparagraph (A). The Office shall identify any lessee of such right to provide rail passenger transportation on a route utilizing procedures for full and open competition.

''(C) TRANSPORTATION.—A person or entity leasing the right to provide rail passenger transportation on a route under subparagraph (B) shall provide such rail passenger transportation on the route as is specified by the Office in the lease under subparagraph (B). The rail passenger transportation so specified for a route shall be equivalent to the rail passenger transportation scheduled to provided by the Corporation on the route before the forfeiture of the right to provide transportation on the route under subparagraph (A).

''(D) ASSISTANCE.—A person or entity providing rail passenger transportation on a route under subparagraph (B) shall be entitled to such assistance under this part, and under any other provision of law, for the provision of such rail passenger transportation as would otherwise have been provided to the Corporation if the Corporation had provided such rail passenger transportation on such route.

''(E) BONUS.—If the Office determines that a person or entity providing rail passenger transportation on a route under subparagraph (B) has met the on-time performance goal for that route during the most recent performance period, the Office may pay such person or entity a bonus in an amount determined appropriate by the Office.

''(4) FAILURE OF ON-TIME PERFORMANCE BASED ON LACK OF ACCESS.—

''(A) NOTICE.—The Corporation shall notify the Office of each allegation of the Corporation that the failure of the Corporation to meet the on-time performance goal for a route is due to the denial of access to the tracks of the route by the rail carrier owning the route.

''(B) TRANSMITTAL.—Amtrak shall transmit to the Surface Transportation Board each allegation received by the Office under subparagraph (A).

''(C) INVESTIGATION.—The Board shall investigate each allegation transmitted under subparagraph (B).

''(D CIVIL PENALTIES.—If as a result of an investigation under subparagraph (C) the Board verifies an allegation under subparagraph (A), the Board may impose a civil penalty on the rail carrier that is the subject of the allegation in such amount as the Board considers appropriate.

''(5) DEFINITIONS.—In this subsection:

''(A) ON-TIME PERFORMANCE GOAL.—Within 12 months after the date of enactment of the American Rail Equity Act of 2003, the National Rail Office, after consulation with Amtrak, shall establish criteria for determining what attributes characterize an 'on-time performance goal'. In the case of a route, the criteria shall be based upon at least 80 percent of the trains scheduled to provide passenger rail transportation on the route during the most recent performance period arriving not later than their scheduled arrival time.

''(B) PERFORMANCE PERIOD.—The term 'performance period' means the 12-month period ending on the date a determination is made regarding whether the trains scheduled to provide passenger rail transportation on a route met their on-time performance goal.

''(c) ADDITIONAL ROUTES.—

''(1) ADDITIONAL ROUTES.—The Office may establish 1 or more additional routes for the national rail passenger system if the Office determines pursuant to the study under section 502 of the American Rail Equity Act of 2003 that the establishment of such route or routes is feasible and advisable.

''(2) CORRIDORS FOR HIGH-SPEED RAIL SERVICE.—The Office may add to the national passenger rail system any corridor for high-speed rail service established pursuant to section 26104 of this title.

''§ 25008. National Passenger Rail Office: identification of rail infrastructure improvement projects for national passenger rail system

''(a) IDENTIFICATION OF RAIL INFRASTRUCTURE IMPROVEMENT PROJECTS.—

''(1) IN GENERAL.—The National Passenger Rail Office shall, on a quarterly basis, identify the rail infrastructure improvement projects that are advisable to improve or enhance the operations of the national passenger rail system, including operations in the Northeast Corridor.

''(2) NATURE OF IMPROVEMENTS.—The infrastructure improvements covered by rail infrastructure improvement projects under paragraph (1) may include—

''(A) track and other capital improvements;

''(B) the acquisition of rights-of-way; and

''(C) such other improvements as the Office considers advisable to improve or enhance the operations of the national passenger rail system.

''(3) STATE INPUT.—Recommendations of States for projects for identification under paragraph (1) shall be submitted to the National Passenger Rail Office in accordance with such requirements as the Director of the Office may prescribe.

''(b) INFORMATION ON POTENTIAL PROJECTS.—A rail carrier seeking to carry out a rail infrastructure improvement project for purposes of subsection (a) shall submit to the Office such information on the project as the Director of the Office shall require, including—

''(1) the nature of the infrastructure improvements under the project;

''(2) the cost of the infrastructure improvements; and

''(3) an assessment of the extent to which the infrastructure improvements will improve or enhance the operations of the national passenger rail system.

''(c) REPORTS TO NATIONAL RAIL TRANSPORTATION FINANCING CORPORATION.—

''(1) IN GENERAL.—The Director of the Office shall, on a quarterly basis, submit to the National Rail Transportation Financing Corporation a report setting forth the rail infrastructure improvement projects identified under subsection (a) during the preceding quarter.

''(2) REPORT ELEMENTS.—Each report under paragraph (1) shall contain such information as the Director of the Office and the Corporation jointly consider appropriate in order—

''(A) to fully inform the Corporation of the nature, cost, benefits, and priority of each rail infrastructure improvement project identified in such report; and

''(B) to permit the Corporation to evaluate the advisability of making a grant for each such rail infrastructure improvement project under 306 of the American Rail Equity Act of 2003.

''§ 25009. Rail infrastructure improvements grant program

''The National Passenger Rail Office may make grants for rail infrastructure improvement projects identified under section 25008 of this title.

''§ 25010. Construction with other law; preservation and allocation of authorities

''(a) CONSTRUCTION.—The provisions of this chapter supersede any provisions of this part, and any other provisions of law, that are inconsistent with the provisions of this chapter.

''(b) PRESERVATION OF AUTHORITIES.—

''(1) NATIONAL PASSENGER RAIL OFFICE.—For purposes of carrying out its responsibility under this chapter, including the operation and maintenance of facilities under section 25005(c) of this title, the National Passenger Rail Office may utilize any power or authority of Amtrak under this part, or under any other provision of law, to the extent that such power or authority is not inconsistent with a provision of this chapter, as if the Office were Amtrak.

''(2) NATIONAL PASSENGER RAIL AUTHORITY.—For purposes of carrying out its responsibilities under section 25004(b) of this title, the National Passenger Rail Corporation may utilize any power or authority of Amtrak under this part, or under any other provision of law, to the extent that such power or authority is not inconsistent with a provision of this chapter, as if the Corporation were Amtrak.

''(c) MEMORANDUM OF UNDERSTANDING.—The Office and the Corporation shall, subject to the supervision and concurrence of the Administrator of the Federal Transit Administration, enter into a memorandum of understanding allocating among the Office and the Corporation the authorities, powers, and responsibilities of Amtrak under this part, and under any other provision of law, in a manner consistent with the provisions of this chapter.

''(d) REFERENCES.—

''(1) NATIONAL PASSENGER RAIL AUTHORITY.—Any reference to Amtrak in any law, regulation, map, document, record, or other paper of the United States with respect to the performance of any function or activity that is retained by the National Passenger

Rail Corporation under this chapter shall be considered to be a reference to the National Passenger Rail Corporation.

''(2) NATIONAL PASSENGER RAIL OFFICE.—Any reference to Amtrak in any law, regulation, map, document, record, or other paper of the United States with respect to the performance of any function or activity that is assumed by the National Passenger Rail Office under this chapter shall be considered to be a reference to the National Passenger Rail Office.

''§ 25011. Authorizations

''(a) IN GENERAL.—There are authorized to be appropriated $2,000,000,000 for each of fiscal years 2004 through 2009 for the operations of the National Passenger Rail Corporation under this chapter.

''(b) ALLOCATIONS.—To the extent provided in appropriations Acts, $3,000,000 of the amount appropriated pursuant to the authorization of appropriations in subsection (a) in any fiscal year shall be available for the National Passenger Rail Office for the administrative expenses of the Office in such fiscal year.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 249 the following new item:

''251. NATIONAL PASSENGER RAILROAD SYSTEM ..... 25001''.

Subtitle B—High-Speed Corridors for Passenger Rail

SEC. 211. INTERSTATE RAILROAD PASSENGER HIGH-SPEED TRANSPORTATION POLICY.

(a) IN GENERAL.—Chapter 261 is amended by inserting before section 26101 the following:

''§ 26100. Policy.

''The Congress declares that it is the policy of the United States that designated high-speed railroad passenger transportation corridors are the building blocks of an interconnected interstate railroad passenger system that serves the entire Nation.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 261 is amended by inserting before the item relating to section 26101 the following:

''26100. Policy''.

SEC. 212. HIGH-SPEED RAIL CORRIDOR PLANNING.

(a) IN GENERAL.—Section 26101(a) is amended to read as follows:

''(a) PLANNING.—

''(1) IN GENERAL.—The Secretary of Transportation shall provide planning assistance to States or group of States and other public agencies promoting the development of high-speed rail corridors designated by the Secretary under section 104(d) of title 23.

''(2) SECRETARY MAY PROVIDE DIRECT OR FINANCIAL ASSISTANCE.—The Secretary may provide planning assistance under paragraph (1) directly or by providing financial assistance to a public agency or group of public agencies to undertake planning activities approved by the Secretary. Not less than 20 percent of the publicly financed planning costs associated with projects assisted under this chapter shall come from non-Federal sources. State matching contributions may not be derived, directly or indirectly, from Federal funds.''.

(b) CONFORMING AND OTHER AMENDMENTS TO SECTION 26101.—Section 26101 is further amended—

(1) by striking subsection (c)(2) and inserting the following:

''(2) the extent to which the proposed planning focuses on high-speed rail systems, giving a priority to systems which will achieve sustained speeds of 125 miles per hour or greater and projects involving dedicated rail passenger rights-of-way;'';

(2) by inserting ''and'' after the semicolon in subsection (c)(12);

(3) by striking ''completed; and'' in subsection (c)(13) and inserting ''completed.''; and

(4) by striking subsection (c)(14).

(c) CONFORMING AMENDMENT.—Section 26105(2)(A) is amended by striking ''more than 125 miles per hour;'' and inserting ''90 miles per hour or more;''.

(d) FINANCIAL ASSISTANCE TO INCLUDE LOANS AND LOAN GUARANTEES.—Section 26105(1) is amended by inserting ''loans, loan guarantees,'' after ''contracts,''.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for each of fiscal years 2004 through 2008 to provide planning assistance under section 26101(a) of title 49, United States Code, as amended by subsection (a).

SEC. 213. ASSISTANCE FOR ESTABLISHMENT OF CORRIDORS FOR HIGH-SPEED RAIL SERVICE.

(a) IN GENERAL.—Chapter 261 of title 49, United States Code, is amended—

(1) by redesignating sections 26104 and 26105 as sections 26105 and 26106, respectively; and

(2) by inserting after section 26103 the following new section 26104:

''§ 26104. Additional support for establishment of high-speed rail corridors

''(a) PURPOSE.—The purpose of this section is to facilitate the establishment of a national network of corridors for high-speed rail service.

''(b) CORPORATION TO MAKE GRANTS.—The National Rail Transportation Financing Corporation under title III of the American Rail Equity Act of 2003 may make grants of financial assistance to individual States or compacts of States for the establishment of corridors for high-speed rail service.

''(c) APPLICATION.—A State or compact of States seeking a grant under this section shall submit to the Corporation an application therefor in such form, and including such information, as the Corporation shall require.

''(d) MATCHING REQUIREMENT.—A State or compact of States receiving a grant under this section for activities relating to the establishment of a corridor for high-speed rail service shall bear not less than 80 percent of the costs of the activities funded by the grant.

''(e) USE OF GRANT.—A State or compact of States receiving a grant under this section shall use the grant amount for purposes of the establishment of 1 or more corridors for high-speed rail service, including the purchase of rights-of-way for the provision of such service.

''(f) TREATMENT OF CORRIDORS.—The National Passenger Rail Office may treat a corridor established pursuant to this section as part of the national passenger rail system under chapter 251 of this title.

''(g) CONSTRUCTION WITH OTHER ASSISTANCE CORPORATION.—The authority to make grants under this section for the establishment of corridors for high-speed rail service is in addition to any other authority in this chapter, or under any other provision of law, relating to the provision of assistance for the establishment of corridors for high-speed rail service.

''(h) FUNDING.—Amounts derived from the issuance of qualified rail transportation bonds under title III of the American Rail Equity Act of 2003 and section 54 of the Internal Revenue Code of 1986 shall be available for grants under this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 261 of such title is amended by striking the items relating to section 26104 and 26105 and inserting the following new items:

''26104. Additional support for establishment of high-speed rail corridors.
''26105. Authorization of appropriations.
''26106. Definitions.''.

TITLE III—RAIL INFRASTRUCTURE IMPROVEMENT

Subtitle A—Rail Infrastructure Finance Corporation

SEC. 301. ESTABLISHMENT OF CORPORATION.

There is established a nonprofit corporation, to be known as the ''Rail Infrastructure Finance Corporation''. The Rail Infrastructure Finance Corporation is not an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 302. BOARD OF DIRECTORS.

(a) APPOINTMENT.— The Rail Infrastructure Finance Corporation shall have a Board of Directors consisting of 9 members appointed by the President, by and with the advice and consent of the Senate. Not more than 5 members of the Board may be members of the same political party.

(b) MEMBERSHIP QUALIFICATIONS.—

(1) IN GENERAL.—The 9 members of the Board shall be appointed from among citizens of the United States (not regular full-time employees of the United States) who are eminent in the fields of rail transportation, rail financing, and intermodal transportation planning, and the financing and management of large-scale, long-term public-private cooperative projects.

(2) REPRESENTATION OF SPECIFIC INTERESTS.—Of the 9 members of the Board, 8 of the members shall be selected as follows:

(A) Two members from among individuals who represent the interests of freight rail transportation.

(B) One member from among individuals who represent the interests of passenger rail transportation.

(C) One member from among individuals who represent the interests of the States.

(D) One member from among individuals who represent the interests of intercity passenger rail users.

(E) One member from among individuals who represent the interests of organized labor.

(F) Two members from among persons who are involved in finance.

(c) INCORPORATION.—The members initially appointed to the Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of Delaware.

(d) TERMS OF OFFICE.—Members of the Board shall be appointed for terms of 6 years, except that of the members first appointed, the President shall designate 2 to serve a term of 1 year and 2 to serve a term of 3 years. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.

(e) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall serve only for the remainder of the term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed.

(f) ATTENDANCE REQUIRED.—Members of the Board shall attend not less than 50 percent of all duly convened meetings of the Board in any calendar year. A member who fails to meet the requirement of the preceding sentence shall forfeit membership and the President shall appoint a new member to fill the

resulting vacancy not later than 30 days after such vacancy is determined by the Chairman of the Board.

(g) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—Members of the Board shall annually elect 1 of their members to be Chairman and elect 1 or more of their members as a Vice Chairman or Vice Chairmen.

(h) COMPENSATION.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this title, be entitled to receive compensation at the rate of $150 per day, including travel-time. No Board member shall receive compensation of more than $10,000 in any fiscal year. While away from their homes or regular places of business, Board members shall be allowed travel and actual, reasonable, and necessary expenses.

(i) MEETINGS OPEN TO PUBLIC.—All meetings of the Board of Directors of the Corporation, including any committee of the Board, shall be open to the public under such terms, conditions, and exceptions as the Board may establish.

SEC. 303. OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—The Rail Infrastructure Finance Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No officer or employee of the Corporation may be compensated by the Corporation at an annual rate of pay that exceeds the rate of basic pay for level I of the Executive Schedule under section 5312 of title 5, United States Code. No individual other than a citizen of the United States may be an officer of the Corporation. Subject to section 302(h), no officer of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers shall serve at the pleasure of the Board.

(b) NONPARTISAN NATURE OF APPOINTMENTS.—Except as provided in the second sentence of section 302(a), no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

SEC. 304. NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION.

(a) STOCK.—The Rail Infrastructure Finance Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) NO PRIVATE BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) POLITICAL ACTIVITY PROHIBITED.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(d) CONFLICTS OF INTEREST.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested. Board members shall recuse themselves from Board decisions that directly affect either them or entities they represent regarding grants and other assistance provided to States by the Board.

SEC. 305. PURPOSE AND ACTIVITIES OF CORPORATION.

(a) PURPOSE.—The Rail Infrastructure Finance Corporation shall, through the issuance of qualified rail infrastructure bonds in accordance with section 54 of the Internal Revenue Code of 1986 and this title, provide financial support for rail transportation capital projects under subtitle B.

(b) BOND ISSUANCE CORPORATION.—

(1) IN GENERAL.—In order to carry out its purposes, the Corporation is authorized to issue qualified rail infrastructure bonds (as defined in section 54(e) of the Internal Revenue Code of 1986) during the 6-year period beginning October 1, 2003.

(2) LIMITATION.—The total face amount of the bonds outstanding under paragraph (1) at any time may not exceed $48,000,000,000.

(3) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(B) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(C) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(4) AUTHORITY.—To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation under the laws of the State of Delaware.

(c) FEDERAL ASSISTANCE.—The Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any department or agency of the Federal Government, but only to the extent permitted by law and to the extent necessary to carry out the purpose set forth in subsection (a) and the activities described in subsection (b).

SEC. 306. REPORT TO CONGRESS.

(a) IN GENERAL.—On or before May 15 of each year, the Rail Infrastructure Finance Corporation shall submit an annual report for the fiscal year ending on September 30 of the preceding year to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this title and such recommendations as the Corporation deems appropriate.

(b) AVAILABILITY FOR TESTIMONY.—The officers and directors of the Corporation shall be available to testify before those committees with respect to such report, the report of any audit made by the Comptroller General pursuant to section 307(d)(3), or any other matter which such committees may determine.

SEC. 307. ADMINISTRATIVE MATTERS.

(a) BUDGET.—The Rail Infrastructure Finance Corporation shall establish an annual budget for the Corporation, including the Rail Infrastructure Investment Account under subsection (c).

(b) IMPLEMENTATION PLAN.—

(1) REQUIREMENT FOR PLAN.—The Corporation shall conduct a study and prepare a plan on how the Corporation can best achieve the purposes and fulfill the requirements of this title.

(2) CONSULTATION.—In preparing the plan, the Corporation may consult with the Secretary of Transportation, the Secretary of the Treasury, and representatives of State and local governments.

(3) OTHER REQUIREMENTS.—The plan, which shall be based on the conclusions resulting from the study conducted under paragraph (1), shall be submitted by the Corporation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than January 31, 2004. Unless directed otherwise by law, the Corporation shall implement the plan during the first fiscal year beginning after the fiscal year in which the plan is submitted to Congress.

(c) RAIL INFRASTRUCTURE INVESTMENT ACCOUNT.—

(1) ESTABLISHMENT.—The Board of Directors for the Corporation shall establish an account to be known as the Rail Infrastructure Investment Account.

(2) DEPOSIT OF BOND PROCEEDS.—The Corporation shall deposit the proceeds of sales of any bonds issued under section 54 of the Internal Revenue Code of 1986 into the Account.

(3) DEPOSIT OF NON-FEDERAL CONTRIBUTIONS.—The Board shall deposit all contributions received under section 304(a) into the Account.

(4) DISBURSEMENTS.—The Board shall make available and may disburse, at the beginning of fiscal year 2004 and of each succeeding fiscal year thereafter, such funds as may be available for obligation and expenditure from the Account.

(5) USE OF ACCOUNT FUNDS.—Funds in the Account—

(A) shall be used by the Corporation for investment purposes through the trust established under section 308 to generate an amount sufficient—

(i) to repay the principal of the bonds at their maturity; and

(ii) to pay the administrative costs of the Corporation and the Rail Infrastructure Finance Trust under section 308; and

(B) shall, to the extent of the net spendable proceeds in the account, be held in the Rail Infrastructure Finance Trust established under section 308 and be available for distribution as grants of financial assistance under subtitle B.

(6) NET SPENDABLE PROCEEDS DEFINED.—In this subsection, the term 'net spendable proceeds', with respect to the Rail Infrastructure Investment Account, means the amount equal to the excess of—

(A) the total amount in such Account, over

(B) the amount in such Account that is needed for uses under paragraph (5)(A).

(d) RECORDS AND AUDIT.—

(1) IN GENERAL.—The account of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the

balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(2) AUDIT REPORT.—The report of each such independent audit shall be included in the annual report required by section 306. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(3) AUDIT BY COMPTROLLER GENERAL.—The financial transactions of the Corporation may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers and property of the Corporation shall remain in possession and custody of the Corporation.

(4) GAO REPORT TO CONGRESS.—A report of each audit under paragraph (3) shall be made by the Comptroller General to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall contain such comments and information as the Comptroller General considers necessary to inform the committees of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

(5) ACCOUNTING PRINCIPLES.—

(A) APPLICABLE PRINCIPLES.—Not later than 1 year after the date of the enactment of this Act, the Corporation shall develop accounting principles which shall be used uniformly by all entities receiving funds under this title, taking into account organizational differences among various categories of such entities. Such principles shall be designed to account fully for all funds received and expended for purposes of this title by such entities.

(B) CONSULTATION.—The Corporation may consult with the Comptroller General and, as appropriate, with others in the development of the accounting principles under subparagraph (A).

(6) REQUIREMENTS FOR RECIPIENTS.—Each entity receiving funds under this title shall—

(A) keep its books, records, and accounts in such form as may be required by the Corporation;

(B) either—

(i) undergo a biennial audit by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State, which audit shall be in accordance with auditing standards developed by the Corporation, in consultation with the Comptroller General; or

(ii) submit a financial statement in lieu of the audit required by subparagraph (A) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and

(C) furnish biennially to the Corporation a copy of the audit report required pursuant to the subparagraph (B), as well as such other information regarding finances (including an annual financial report) as the Corporation may require.

(7) ADDITIONAL RECORDKEEPING.—Any recipient of assistance by grant or contract under this section, other than a fixed price contract awarded pursuant to competitive bidding procedures, shall keep such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of such assistance, that total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the projects or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(8) ACCESS TO RECORDS.—The Corporation or any of its duly authorized representatives shall have access to any books, documents, papers, and records of any recipient of assistance for the purpose of auditing and examining all funds received from the Corporation. The Comptroller General of the United States or any of his duly authorized representatives also shall have access to such books, documents, papers, and records for the purpose of auditing and examining all funds received from the Corporations during any fiscal year for which Federal funds are available to the Corporation.

(9) PUBLIC INSPECTION.—The Corporation shall maintain the information described in paragraphs (6), (7), and (8) at its offices for public inspection and copying for at least 3 years, according to such reasonable guidelines as the Corporation may issue. This public file shall be updated regularly.

SEC. 308. RAIL INFRASTRUCTURE FINANCE TRUST.

(a) ESTABLISHMENT.—The Board of Directors of the Rail Infrastructure Finance Corporation shall establish the Rail Infrastructure Finance Trust (hereafter in this section referred to as the ''Trust'') as a trust domiciled in the State of Delaware. The Trust shall, to the extent not inconsistent with this Act, be subject to the laws of the State of Delaware that are applicable to trusts. The Trust shall manage and invest the assets of the Rail Infrastructure Account described in section 307(c) that are transferred to it by the Board in the manner set forth in this section.

(b) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—The Trust is not a department, agency, or other instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

(c) BOARD OF TRUSTEES.—

(1) ESTABLISHMENT.—The Trust shall have a Board of Trustees.

(2) COMPOSITION.—

(A) APPOINTMENT.—The Board of Trustees shall consist of 5 members each of whom (hereafter in this title referred to as a ''Trustee'') is appointed by a unanimous vote of the Board of Directors of the Rail Infrastructure Finance Corporation. The Board of Directors, by unanimous vote, may remove any member of the Board of Trustees.

(B) REPRESENTATION OF PARTICULAR INTERESTS.—The 5 members of the Board of Trustees shall be selected as follows:

(i) One from among persons who represent the interests of the States.

(ii) One from among persons who represent the interests of freight railroads.

(iii) One from among persons who represent the interests of passenger railroads.

(iv) One from among persons who represent the interests of holders of qualified rail infrastructure bonds issued by the Rail Infrastructure Finance Corporation.

(v) One from among persons whose interests are independent of interests referred to in the other clauses of this subparagraph.

(3) MEMBERS NOT UNITED STATES OFFICIALS.—The members of the Board of Trustees may not be considered officers or employees of the Government of the United States.

(4) QUALIFICATIONS.—The Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments. No member of the Board of Directors of the Rail Infrastructure Finance Corporation is eligible to be a Trustee.

(5) TERMS.—Each member of the Board of Trustees shall be appointed for a 3-year term. Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the member whose departure caused the vacancy. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

(d) POWERS.—The Board of Trustees shall—

(1) establish investment policies, including guidelines, and retain independent advisers to assist in the formulation and adoption of the investment guidelines;

(2) retain independent investment managers to invest the assets of the Trust in a manner consistent with such investment guidelines;

(3) invest assets in the Trust, pursuant to the policies adopted in paragraph (1);

(4) pay administrative expenses of the Trust from the assets in the Trust; and

(5) transfer money to the Rail Infrastructure Investment Account, upon request of the Board of Directors of the Rail Infrastructure Finance Corporation, for bond repayment and administrative expenses, and for grants under subtitle B.

(e) REPORTING REQUIREMENTS AND FIDUCIARY STANDARDS.—The following reporting requirements and fiduciary standards shall apply with respect to the Trust:

(1) DUTIES OF THE BOARD OF TRUSTEES.—The Trust and each member of the Board of Trustees shall discharge the duties of the Trust and the duties of the Trustee, respectively (including the voting of proxies), with respect to the assets of the Trust solely in the interests of the Rail Infrastructure Finance Corporation and the programs funded under this title—

(A) for the exclusive purposes of—

(i) providing sufficient funds to repay qualified rail infrastructure bonds issued by the Rail Infrastructure Finance Corporation, to fund the administrative costs of the Rail Infrastructure Finance Corporation and to provide grants for rail capital projects under subtitle B; and

(ii) defraying reasonable expenses of administering the Trust;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like

capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying investments so as to minimize the risk of large losses and to avoid disproportionate influence over a particular industry or firm, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this Act.

(2) PROHIBITIONS WITH RESPECT TO MEMBERS OF THE BOARD OF TRUSTEES.—A member of the Board of Trustees may not—

(A) deal with the assets of the Trust in the Trustee's own interest or for the Trustee's own account;

(B) in an individual or in any other capacity, act in any transaction involving the assets of the Trust on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust and the Rail Infrastructure Finance Corporation; or

(C) receive any consideration for the Trustee's own personal account from any party dealing with the assets of the Trust.

(3) EXCULPATORY PROVISIONS AND INSURANCE.—Any provision in an agreement or instrument that purports to relieve a Trustee from responsibility or liability for any responsibility, obligation, or duty under this Act shall be void. Nothing in this paragraph shall be construed to preclude—

(A) the Trust from purchasing insurance for its Trustees or for itself to cover liability or losses occurring by reason of the act or omission of a Trustee, if such insurance permits recourse by the insurer against the Trustee in the case of a breach of a fiduciary obligation by such Trustee;

(B) a Trustee from purchasing insurance to cover liability under this section from and for his own account; or

(C) an employer or an employee organization from purchasing insurance to cover potential liability of 1 or more Trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

(4) TRUSTEES BONDS.—

(A) REQUIREMENT.—Each Trustee and every person who handles funds or other property of the Trust (hereafter in this section referred to as ''Trust official'') shall be bonded. The bond shall provide protection to the Trust against loss by reason of acts of fraud or dishonesty on the part of any Trust official, directly or through the connivance of others.

(B) AMOUNT.—The amount of a bond for a Trustee under this paragraph shall be fixed at the beginning of each fiscal year of the Trust by the Board of Directors of the Rail Infrastructure Finance Corporation. The amount may not be less than 10 percent of the amount of the funds administered by the Trust. In no case may such bond be less than $1,000 nor more than $500,000, except that the Board of Directors, after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10 percent minimum requirement in the preceding sentence.

(C) UNLAWFUL CONDUCT.—It shall be unlawful for—

(i) any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Trust without being bonded as required by this subsection;

(ii) any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met; and

(iii) any person to procure any bond required by this subsection from any surety or other company or through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

(f) AUDIT AND REPORT.—

(1) REQUIREMENT FOR ANNUAL AUDIT.—The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Trust.

(2) ANNUAL MANAGEMENT REPORT.—The Trust shall submit an annual management report to be included in the annual report of the Corporation required under section 306. The management report under this paragraph shall include the following matters:

(A) A statement of financial position.

(B) A statement of operations.

(C) A statement of cash flows.

(D) A statement on internal accounting and administrative control systems.

(E) The report resulting from an audit of the financial statements of the Trust conducted under paragraph (1).

(F) Any other comments and information necessary to inform Congress about the operations and financial condition of the Trust.

(3) ADDITIONAL COPIES.—The Trust shall provide the President and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.

(g) ENFORCEMENT.—The Rail Infrastructure Finance Corporation may commence a civil action—

(1) to enjoin any act or practice by the Trust, its Board of Trustees, or its employees or agents that violates any provision of this Act; or

(2) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this Act.

(h) ADMINISTRATIVE MATTERS.—

(1) AUTHORITY.—The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisers (including the Rail Infrastructure Finance Corporation) to provide legal, accounting, investment advisory, or other services necessary for the proper administration of this section. In the case of a contract for investment advisory services, compensation for such services may be provided on a fixed fee basis or on such other terms and conditions as are customary for such services.

(2) QUORUM AND PROCEEDINGS.—Three members of the Board of Trustees shall constitute a quorum for the Board to conduct business. Investment guidelines shall be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.

(3) COMPENSATION OF TRUSTEES AND EMPLOYEES.—The salaries of the Trustees and the employees of the Trust are subject to the limitations in section 303.

(4) FUNDING.—The expenses of the Trust and the Board of Trustees that are incurred under this section shall be paid from the Trust.

(i) EXEMPTION FROM TAX FOR RAIL INFRASTRUCTURE FINANCE TRUST.—Subsection (c) of section 501 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(29) The Rail Infrastructure Finance Trust established under section 308 of the American Rail Equity Act of 2003.''.

Subtitle B—Rail Development Grant Program

SEC. 311. NATIONAL SYSTEM IMPROVEMENT GRANT PROGRAM.

(a) GRANTS TO STATES.—The Board of Directors of the Rail Infrastructure Finance Corporation may, by grant, provide financial assistance to a State, group of States, or the National Railroad Passenger Corporation, for, or in connection with, intercity passenger rail capital projects that are—

(1) designated as National System Improvement Projects under section 22506 of title 49, United States Code; and

(2) as determined by the Board, will significantly benefit the National System, as designated under section 25002(a) of title 49, United States Code, of intercity passenger rail infrastructure or services.

(b) PROJECT SELECTION CRITERIA.—The Board, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

(1) give preference to projects that most significantly improve intercity passenger rail service on routes of the National System through increased frequency of on-time performance, reduced trip time, higher ridership, increased service frequency, or other service measures as defined under section 22506 of title 49, United States Code;

(2) give preference to projects that effect multiple routes or the entire National System;

(3) require that each proposed project meet all safety requirements that are applicable to the project under law, and give a preference to any project determined by the Board as having provided for particularly high levels of safety;

(4) encourage intermodal connectivity through projects that provide direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

(5) ensure a general balance across geographic regions of the United States in providing such assistance and avoid a concentration of a disproportionate amount of such financial assistance in a single project or region of the country;

(6) favor projects that are expected to have a significant favorable impact on air or highway traffic congestion;

(7) encourage projects that also improve freight or commuter rail operations;

(8) favor projects that either—

(A) have significant environmental benefits; or

(B) are—

(i) at a stage of preparation that all precommencement compliance with environmental protection requirements has already been completed; and

(ii) ready to be commenced;

(9) favor projects with positive economic and employment impacts;

(10) encourage the use of positive train control technologies;

(11) favor projects that have commitments of funding from non-Federal Government sources in a total amount that exceeds the minimum amount of the non-Federal contribution required under section 315(a);

(12) ensure that each project is compatible with, and is operated in conformance with—

(A) plans developed pursuant to the requirements of sections 134 and 135 of title 23, United States Code;

(B) State rail plans under chapter 225 of title 49, United States Code; and

(C) the national rail plan; and

(13) favor projects that enhance national security.

(c) AMTRAK ELIGIBILITY.—To receive a grant under this section, the National Railroad Passenger Corporation may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on an approved State rail plan's ranked list of priority freight and passenger rail capital projects developed under section 22504(5) of title 49, United States Code, or may submit an independent application for a grant for

any project designated as a National System Improvement Project under section 22506 of title 49, United States Code. Any such independent grant request shall be subject to the same selection criteria as apply under subsection (b) to projects of States, except the criteria set forth in subparagraphs (A) and (B) of subsection (b)(12).

(e) LIMITATIONS.—

(1) TWO-YEAR AVAILABILITY.—If any amount provided as a grant to a State or the National Railroad Passenger Corporation under this section is not obligated or expended for the purposes described in subsections (a) and (b) within 2 years, such sums shall be returned to the Board for other national system improvement projects under this section at the discretion of the Board.

(2) SINGLE PROJECT AMOUNT.—In awarding grants to States for eligible projects under this section, the Board shall limit the amount of any grant made for a particular project in a fiscal year to not more than 30 percent of the total amount of the funds available for grants under this section for that fiscal year.

(3) AMTRAK.—The total amount of grants made under this section to the National Railroad Passenger Corporation in a fiscal year may not exceed 50 percent of the total amount available under this section for all grants in that fiscal year.

(4) NORTHEAST CORRIDOR PROJECTS.—The total amount of grants made under this section for the Northeast Corridor in a fiscal year may not exceed 25 percent of the total amount available under this section for all grants under this section in that fiscal year.

(5) OTHER PROJECTS.—The total amount of grants made under this section for projects other than projects for the Northeast Corridor in any fiscal year may not exceed 75 percent of the total amount available under this section for all grants under this section in that fiscal year.

(6) NORTHEAST CORRIDOR DEFINED.—In this section, the term ''Northeast Corridor'' has the meaning given that term in section 24102(6) of title 49, United States Code.

(f) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for fiscal years 2004 through 2009 such sums as may be necessary to carry out subsections (a) through (e) of this section.

(2) NORTHEAST CORRIDOR FREIGHT-ONLY TRACK.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, there are authorized to be appropriated to the Secretary of Transportation for the construction of a freight-only track on the Northeast Corridor for fiscal year 2005 $125,000,000, including capital improvements, improvements to signal systems, high-speed interlockings, track, and bridges, such sum to remain available until expended.

(B) FINANCIAL CONTRIBUTION FROM OTHER USERS.—The Secrtary shall consider the feasibility of seeking a financial contribution to the construction of the track and capital improvements related thereto from other users.

(C) PROJECT CONSTRUCTION.—The Secretary shall coordinate construction of the track with the owner of the freight easement on the Northeast Corridor to ensure that current service commitments for both passenger and freight rail transportation are maintained.

SEC. 312. GRANT PROGRAM REQUIREMENTS AND LIMITATIONS.

(a) AUTHORIZED USES.—The proceeds of a grant made for a project under this subtitle may be used to defray the costs of the project or to reimburse the recipient for costs of the project paid by the recipient.

(b) NON-FEDERAL CONTRIBUTION.—The proceeds of a grant for 1 or more projects under this subtitle may be released upon receipt by the Board of Directors of the Rail Infrastructure Finance Corporation of cash payment by a non-Federal Government source, or 1 or more such sources jointly, in an amount not less than the amount equal to 20 percent of the amount of the grant disbursed. The cash payment may not be derived, directly or indirectly, from Federal funds. Amounts received under this subsection shall be credited to the Rail Infrastructure Investment Account established under section 307(c).

(c) PREFERENCE INVOLVING DONATED PROPERTY INTERESTS AND SERVICES.—In selecting projects for grant funding under this subtitle, the Board may give preference to projects that involve donated right-of-way, property, or in-kind services by a public sector or private sector entity. The value of a donation under subsection (c) may not be counted toward satisfaction of the requirement in subsection (b).

(d) FLEXIBILITY.—Notwithstanding any other provision of this subtitle, amounts made available under section 316 may be combined and used for projects that significantly benefit both freight rail service and intercity passenger rail service.

(e) SUBALLOCATION; PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this subtitle.

(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

(B) cost-sharing of any project expense;

(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Board.

(3) SUB-ALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

(f) APPLICATIONS.—To seek a grant under this subtitle, a State or, in the case of a grant under section 311, the National Railroad Passenger Corporation shall submit an application for the grant to the Board. The application shall be submitted at such time and contain such information as the Board requires.

(g) PROCEDURES FOR GRANT AWARD.—The Board shall prescribe procedures for the awarding of grants under this subtitle, including application and qualification procedures and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the applicant and the Board. The Board shall initiate rulemaking for the purpose of this subsection not later than 90 days after the date of the enactment of this Act.

Subtitle C—Rail Infrastructure Tax Credit Bonds

SEC. 321. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds

''Sec. 54. Credit to holders of qualified rail infrastructure bonds.

"SEC. 54. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified rail infrastructure bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified rail infrastructure 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 qualified rail infrastructure bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

''(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 term includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which 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 a ratable 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 the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—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.

''(e) QUALIFIED RAIL INFRASTRUCTURE BOND.—For purposes of this part, the term 'qualified rail infrastructure bond' means any bond issued as part of an issue if—

''(1) the bond is issued by the Rail Infrastructure Finance Corporation and is in registered form,

''(2) the term of each bond which is part of such issue does not exceed 20 years,

''(3) the payment of principal with respect to such bond is the obligation of the Rail Infrastructure Finance Corporation and not an obligation of the United States,

''(4) all proceeds from the sale of the issue are used for the purposes set forth in section 307(c)(5) of the American Rail Equity Act of 2003, and

''(5) 95 percent or more of the net spendable proceeds from the sale of such issue are to be used for expenditures incurred after the date of enactment of the American Rail Equity Act of 2003 for any project described in section 311, 312, 313, or 314 of that Act.

''(f) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) to award grants under sections 311, 312, 313, and 314 of the American Rail Equity Act of 2003 in a total amount that is at least 95 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

''(B) to incur a binding commitment with a third party—

''(i) to spend at least 10 percent of the net spendable proceeds of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

''(ii) to proceed with due diligence to complete such projects, and

''(C) to expend the total amount of the net spendable proceeds of the issue.

''(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the net spendable proceeds of the issue is not awarded as grants to be expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of paragraph (1) if either the requirement under subparagraph (A) or the requirements under subparagraph (B) are met, as follows:

''(A) The issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period and disburses any remaining net spendable proceeds to the Secretary of Transportation within 30 days after the end of such 3-year period.

''(B) The issuer—

''(i) awards in grants under sections 311, 312, 313, and 314 of the American Rail Equity Act of 2003 at least 75 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance, and

''(ii) either—

''(I) awards in grants under sections 311, 312, 313, and 314 of the American Rail Equity Act of 2003 at least 95 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, or

''(II) pays to the Federal Government any earnings on the proceeds from the sale of the issue that accrue after the end of the 3-year period beginning on the date of issuance and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

''(g) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a qualified rail infrastructure bond ceases to be such a qualified bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55(19).

''(h) RAIL INFRASTRUCTURE FINANCE TRUST.—

''(1) IN GENERAL.—The following amounts shall be held in a trust account by the Rail Infrastructure Finance Corporation:

''(A) An amount of the proceeds from the sale of all bonds designated for purposes of this section that, when combined with amounts described in subparagraphs (B), (C), and (D), is sufficient—

''(i) to ensure the Corporation's ability to redeem all bonds upon maturity; and

''(ii) to pay the administrative expenses of the Corporation and the Rail Infrastructure Finance Trust.

''(B) The amount of any non-Federal contributions required under section 304(a) of the American Rail Equity Act of 2003.

''(C) The temporary period investment earnings on proceeds from the sale of such bonds.

''(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

''(2) USE OF FUNDS.—Amounts in the trust account may be used only for investment purposes to generate sufficient funds to redeem qualified rail infrastructure bonds at maturity and pay the administrative expenses of the Corporation and the Trust, and for funding grants as provided for in section 307(c)(5)(B) of the American Rail Equity Act of 2003.

''(3) USE OF REMAINING FUNDS IN TRUST ACCOUNT.—If the Corporation determines that the amount in the trust account exceeds the amount required to comply with paragraph (2), the Corporation shall transfer the excess to the Rail Infrastructure Finance Trust.

''(i) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) NET SPENDABLE PROCEEDS.—The term 'net spendable proceeds' has the meaning give such term in section 307(c)(6) of the American Rail Equity Act of 2003.

''(3) QUALIFIED PROJECT.—The term 'qualified project' means any project that is eligible for grant funding under section 311, 312, 313, or 314 of the American Rail Equity Act of 2003.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—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(g) shall apply with respect to the credit allowable under subsection (a).

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified rail infrastructure bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of qualified rail infrastructure bonds shall submit reports similar to the reports required under section 149(e).''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON QUALIFIED RAIL INFRASTRUCTURE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified rail infrastructure 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.''.

(B) CORPORATE.—Section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end of subsection (g) the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified rail infrastructure 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.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds.''.

(2) Section 6401(b)(1) is amended by striking ''and G'' and inserting ''G, and H''.

SEC. 322. ANNUAL REPORT BY TREASURY ON RAIL INFRASTRUCTURE TRUST ACCOUNT.

The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the Rail Infrastructure Finance Corporation under section 54(i) of the Internal Revenue Code of 1986, as added by section 321, is sufficient to fully repay at maturity the principal of any outstanding qualified rail infrastructure bonds issued pursuant to section 54 of such Code (as so added), together with amounts expected to be deposited into such account, as certified by the Rail Infrastructure Finance Corporation in accordance with procedures prescribed by the Secretary of the Treasury.

SEC. 323. ISSUANCE OF REGULATIONS.

The Secretary of the Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 (as added by this section 321) not later than 90 days after the date of the enactment of this Act.

SEC. 324. EFFECTIVE DATE.

The amendments made by section 321 shall apply to obligations issued after the date of enactment of this Act.

TITLE IV—RAIL INFRASTRUCTURE AND INTERMODAL TRANSPORTATION

SEC. 401. INTERMODAL TRANSPORTATION POLICY.

Section 302(e) is amended by striking ''system'' and inserting ''system, including freight and passenger rail service and maritime transportation, including such transportation via inland waterways,''.

SEC. 402. STATE RAIL PLANS.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end the following:

''CHAPTER 225—STATE RAIL PLANS

''Sec.
''22501. Authority.
''22502. Purposes and coordination.
''22503. Transparency and review.
''22504. Content.
''22505. High priority projects.
''22506. Approval.
''22507. Definitions.

''§ 22501. Authority

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the approved plan to the Secretary of Transportation for approval; and

''(4) revise and resubmit an approved plan no less frequently than once every 7 years for reapproval by the Secretary.

''§ 22502. Purposes and coordination

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy for all freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to preserve, enhance, or expand rail service in the State.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system.

''§ 22503. Transparency and review

''(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''(b) ANNUAL REVIEWS.—Each State shall transmit an annual report on its plan to the Secretary of Transportation. The report shall included, for the year preceding the year in which submitted, the following matters:

''(1) A review of progress made, and actions taken, under the plan during the year.

''(2) A schedule of actions to be taken during the current year.

''(3) Any modifications made in the plan after approval of the plan by the Secretary or after the submission of the most recent annual report on the plan to the Secretary, including any modifications made to the priority freight or passenger rail capital project list required by section 22504(a)(5) of this title.

''(c) APPROVAL OF MODIFIED PLANS.—Each modification of a State rail plan that is determined substantive by the Secretary, including any modification to a priority freight or passenger rail capital project list required by section 22504(a)(5) of this title, is subject to approval (for the purposes of this chapter) by the Secretary.

''§ 22504. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An evaluation of the existing overall rail transportation system and rail services and facilities within the State, a prioritization of such services and facilities in terms of their contributions to the State's rail and transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service, containing an analysis of the transportation services provided by those lines, their ownership, operating characteristics, the state of their infrastructure (including capital and maintenance requirements), and the economic and environmental impact of those lines.

''(3) A statement of freight and passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.

''(4) A general analysis and quantification of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(5) A long-range rail service and investment program for current and future freight and passenger services in the State that meets the requirements of subsection (b).

''(6) A statement of rail financing issues in the State, including a list of current and prospective capital and operating funding resources, public subsidies, State and Federal taxation, and other financial policies relating to rail service and rail infrastructure development.

''(7) A statement of rail service issues within the State, such as congestion and capacity, and current system deficiencies on a regional, intrastate, and interstate basis, that reflects consultation with neighboring States and describes any coordination of regional rail service.

''(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and options to maximize service integration and efficiency between rail and other modes of transportation within the State.

''(9) A description of new technology that relates to rail transportation within the State, including logistics and process improvements.

''(10) A review of plans and projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

''(11) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

''(12) A description of activities by regional planning agencies, regional transportation authorities, and municipalities in the State on freight and passenger rail service within the State, or in the region in which the State is located, including a presentation of any recommendations made by such agencies, authorities, and municipalities.

''(13) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this chapter, and a plan for funding any recommended development of such corridors in the State.

''(14) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail service and investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two ranked lists for rail capital projects, one for priority freight rail capital projects and one for priority passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The ranked list of priority freight and passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(i) private funding contributions for the projects; and

''(ii) the private benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the ranked list of priority freight and passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal Government and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Highway and transportation system congestion mitigation.

''(D) Regional balance.

''(E) Environmental impact.

''(F) Competitive and service impact for rail carriers and shippers.

''(G) Preservation of rail service.

''(H) Economic and employment impacts.

''(I) Projected ridership for passenger projects.

''(c) WAIVER.—The Secretary may waive the any requirement of subsection (a), except the requirement in paragraph (5) of such subsection, upon application under circumstances that the Secretary determines appropriate.

''§ 22505. High priority projects

''(a) DESIGNATION OF PROJECTS.—The Secretary of Transportation may designate as a high priority project any project that meets both of the following criteria:

''(1) The project is on a ranked list of priority freight and passenger rail capital

projects that is included in a State rail plan under section 22504(5).

''(2) The project focuses on key rail congestion points that are selected by the Secretary—

''(A) on the basis of national benefits to the rail transportation system; and

''(B) coordinated with the national rail plan.

''(b) PREFERRED PROJECTS.—The Secretary, in designating high priority projects, shall give preference to—

''(1) projects that have national significance for—

''(A) improving the national rail network and the Nation's transportation system;

''(B) ensuring particularly high levels of safety;

''(C) increasing intermodal connectivity by providing or improving direct connections between rail facilities and other modes of transportation;

''(D) significantly affecting highway, aviation, or maritime capacity, congestion, or safety;

''(E) improving both intercity passenger rail an freight rail services;

''(F) enhancing rail completion or freight rail service for shippers;

''(G) causing positive economic and employment results;

''(H) producing significant environmental or community benefits;

''(I) having received financial commitments and other support from numerous entities such as States, local governments, or private entities;

''(J) enhancing international trade;

''(K) enhancing national security; or

''(L) employing positive train control technologies; and

''(2) projects that are at the stage of preparation that all precommencement compliance with environmental protection requirements has been completed and the projects are ready to commence.

''(c) REGIONAL BALANCE AND COMPATIBILITY.—The Secretary, in designating high priority projects, shall ensure that—

''(1) the geographic distribution of the projects designated as high priority projects is generally balanced among the geographic regions of the United States and a disproportionate number of such projects is not concentrated in a single region or State; and

''(2) all projects are compatible with, and carried out in conformance with—

''(A) plans developed pursuant to the requirements of sections 134 and 135 of title 23; and

''(B) the national rail plan.

''§ 22506. Approval

''(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each project listed on the ranked list of priority freight and passenger rail capital projects under the plan—

''(A) the project meets all safety requirements that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure directly affected by the project that provides for the State to proceed with the project; and

''(3) the content of the plan is coordinated with—

''(A) plans developed pursuant to the requirements of sections 134 and 135 of title 23; and

''(B) the national rail plan and any other transportation plan of the Federal Government that is required by law.

''(b) PROCEDURES FOR STATE RAIL PLAN SUBMISSION AND APPROVAL.—The Secretary shall prescribe procedures for States to submit State rail plans for review under this subtitle, including application and qualification procedures. The procedures shall provide for the Secretary to review a State rail plan and issue a record of decision of approval or disapproval, with comment, on such plan within 180 days after the plan is submitted.

''§ 22507. Definitions

''In this chapter:

''(1) PRIVATE BENEFIT.—The term 'private benefit' means a benefit accrued to a person or private entity that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary.

''(2) PUBLIC BENEFIT.—The term 'public benefit' means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary.

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

''(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle V is amended by inserting after the item relating to chapter 223 the following:

''225. STATE RAIL PLANS .....22501.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 205—EXPRESSING THE SENSE OF THE SENATE THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED ON THE SUBJECT OF AUTISM AWARENESS

Mr. COLEMAN submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 205

Resolved, That it is the sense of the Senate that—

(1) a commemorative postage stamp should be issued by the United States Postal Service on the subject of autism awareness; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a postage stamp be issued.

Mr. BURNS. Mr. President, I would like to show my support for the autism awareness resolution submitted today by my colleague, Senator COLEMAN. Autism is a developmental disability which typically appears during the first 3 years of life and impairs the communication and social skills in those affected. The result of a neurological disorder affecting the functioning of the brain, autism and its associated behaviors occur in as many as 1 in 500 individuals, in a rate of 5 boys to every girl. Because autism is difficult to recognize and diagnose, it is important that families seek an evaluation by a medical professional experienced in diagnosing and treating the disorder.

This disability is about 10 times more prevalent today than it was in the 1980s, with over 500,000 people in the U.S. today with some form of this pervasive developmental disorder. Its frequency rate makes autism one of the most common developmental disabilities. However, most of the public, including many medical, educational, and vocational professionals, are still unaware of how autism affects people and how they can effectively work with individuals with this diagnosis. I encourage my colleagues to join me in my efforts to increase autism awareness, and support this resolution.

SENATE RESOLUTION 206—HONORING THE MEMORY OF DR. WILLIAM R. (''BILL'') BRIGHT AND COMMENDING HIS LIFE AS AN EXAMPLE TO SUCCEEDING GENERATIONS

Mr. BROWNBACK (for himself and Mrs. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 206

Whereas Dr. Bright died on July 19, 2003, at age 81 in Orlando, Florida from complications related to pulmonary fibrosis, a lung disease for which there is no known cure or effective treatment;

Whereas Dr. Bright was an agnostic humanist and materialist, and successful Hollywood businessman, until he became ''overcome by the love of our great Creator God and Savior'' in 1945, whereupon he spent 5 years in theological studies at Princeton and Fuller Theological Seminaries;

Whereas Dr. Bright, with his wife Vonette, in 1951 founded Campus Crusade for Christ International, which now serves people in 191 countries through a staff of 27,000 full-time employees and up to 500,000 trained volunteers;

Whereas his life focus was on students and laypersons, and from the first he emphasized the role of women as full partners in leadership in the various ministries;

Whereas Dr. Billy Graham, a long-time friend of the Brights, has said: ''He is a man whose sincerity and integrity and devotion to our Lord have been an inspiration and a blessing to me ever since the early days of my ministry'';

Whereas Dr. Bright lived simply, owning neither houses nor land, and receiving no honoraria or donations for his thousands of appearances across the world, and the scores of writings and video presentations he developed;

Whereas when the Berlin Wall came down in 1989, he fulfilled a dream of more than 40 years of praying for Russia by donating his entire pension to establish a ministry to the students of Moscow State University;

Whereas Campus Crusade for Christ International operates more than 70 ministries and projects which offer hope and spiritual enlightenment across the globe to students on hundreds of campuses, urban residents, including minorities, the well-known Athletes-in-Action ministry, leaders of governments, inmates of prisons, aid to families, aid to health and education programs, aid to

families of military personnel, executives, entertainers and musicians, and many others;

Whereas in 1979, Dr. Bright commissioned the JESUS film, a feature-length documentary on the life of Christ, directed by John Heyman, which has since been viewed by more than 5,100,000,000 people in 234 countries and has become the most widely viewed, as well as most widely translated, in 786 languages, film in history;

Whereas Dr. Bright is author of more than 100 books and booklets, as well as thousands of articles and pamphlets that have been distributed by the millions in most major languages, including the widely regarded Four Spiritual Laws of which 2,500,000,000 copies have been distributed;

Whereas Dr. Bright received 8 honorary degrees from universities in the United States and other nations, and numerous awards and honors from higher education, his home state of Oklahoma, and his peers in religious, radio, and television broadcasting;

Whereas, Dr. Bright was awarded the unique and prestigious Templeton Prize for Progress in Religion in 1996, presented by Prince Phillip at Buckingham Palace in London, and was received by Pope John Paul II in Rome where he addressed world spiritual leaders in accepting its $1,100,000 prize, which he directed be given to worldwide fasting for peace and spiritual enlightenment;

Whereas Dr. Bright sought ecumenical and trans-denominational cooperation throughout the world by building more than 1,000 partnerships with other ministries, and in 1983, he and former President Ronald Reagan, along with Jewish, Catholic, and Protestant members of the clergy, informed Congress which voted to establish The Year of the Bible to help focus on timeless truths for the Nation;

Whereas he helped create what media reports describe as the largest non-denominational Christian ministry in the world, and he rejected appeals to establish a single religious denomination and would not allow his name to be attached to any single denominational enterprise;

Whereas he urged followers to be ''salt and light,'' to seek civility in society, and to be active in ministry to prisons, hospitals, orphanages, and he declared the duties of citizenship to be reliably informed, active in the study of issues, voter registration and get-out-the-vote drives, and personal voting;

Whereas he never endorsed individual candidates or parties, and encouraged laypersons to seek public service and often called upon people in all lands to study American History, declaring President George Washington as his secular hero after Jesus of Nazareth and the Apostle Paul;

Whereas in response to a suggestion from a Member of the United States Senate, he helped establish the Evangelical Council for Financial Accountability to set high standards and monitor their compliance, setting an example for all charitable organizations;

Whereas Money magazine has often cited Campus Crusade for Christ International as best or one of the top 5 non-profit ministries for effective stewardship of donor dollars; and

Whereas in his last months he co-founded the Global Pastors Network, a separate ministry to pastors worldwide with helpful resources and a goal to start 5,000,000 home-based studies of the attributes of God: Now, therefore, be it

Resolved, That the Senate—

(1) sends its condolences to Mrs. Vonette Zachary Bright, their grandchildren, their sons, Zac and Brad, and their wives, Terry and Katherine, all of whom are also in full-time Christian ministry; and

(2) does hereby honor the memory of Dr. William R. (''Bill'') Bright, an ambassador of spiritual goodwill, whose 58 years of dedicated and effective service stand as an outstanding example of selfless leadership to all humankind.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1419. Ms. CANTWELL (for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. WYDEN, Mrs. BOXER, Mrs. MURRAY, Mr. HARKIN, and Mr. ROCKEFELLER) proposed an amendment to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 1420. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1421. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1422. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1423. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1424. Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1425. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1426. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1427. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 1424 submitted by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) and intended to be proposed to the bill S. 14, supra; which was ordered to lie on the table.

SA 1428. Mr. INHOFE (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1429. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1430. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1431. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1432. Mr. FRIST proposed an amendment to the bill S. 14, supra.

SA 1433. Mr. FRIST proposed an amendment to the bill S. 14, supra.

SA 1434. Mr. FRIST proposed an amendment to amendment SA 1433 proposed by Mr. FRIST to the bill S. 14, supra.

SA 1435. Mr. FRIST (for Mr. CAMPBELL) proposed an amendment to the bill S. 523, to make technical corrections to law relating to Native Americans, and for other purposes.

TEXT OF AMENDMENTS

SA 1419. Ms. CANTWELL (for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. WYDEN, Mrs. BOXER, Mrs. MURRAY, Mr. HARKIN, and Mr. ROCKEFELLER) proposed an amendment to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

In the pending amendment,

Strike section 1172 and insert the following:

SEC. 1172. MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (as amended by section 1171) is amended by adding at the end the following:

''SEC. 219. PROHIBITION ON MARKET MANIPULATION.

''It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.''.

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after ''not just and reasonable'' the following: ''or that result from a manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219''.

(c) ADDITIONAL REMEDY FOR MARKET MANIPULATION.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

''(e) REMEDY FOR MARKET MANIPULATION.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219, the Commission shall, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates.''.

SA 1420. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER,

Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 19 strike line 6 through line 18 and insert:

(a) NET METERING.—

(1) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

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

SA 1421. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle I—System Benefits

SEC. 1192. SYSTEM BENEFITS FUND.

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

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term ''Board'' means the Board established under this section.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) FUND.—The term ''Fund'' means the System Benefits Trust Fund established by this section.

(5) RENEWABLE ENERGY.—The term ''renewable energy'' means electricity generated from wind, organic waste (excluding incinerated municipal solid waste), or biomass (including anaerobic digestion from farm systems and landfill gas recovery) or a geothermal, solar thermal, or photovoltaic source. For purposes of this paragraph, a farm system is an electric generating facility that generates electric energy from the anaerobic digestion of agricultural waste produced by farming that is located on the farm where substantially all of the waste used in produced.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) BOARD.—

(1) ESTABLISHMENT.—The Secretary shall establish a System Benefits Trust Fund Board to carry out the functions and responsibilities described in this section.

(2) MEMBERSHIP.—The Board shall be composed of—

(A) 1 representative of the Federal Energy Regulatory Commission appointed by the Federal Energy Regulatory Commission;

(B) 2 representatives of the Secretary of Energy appointed by the Secretary of Energy;

(C) 2 persons nominated by the National Association of Regulatory Utility Commissioners and appointed by the Secretary;

(D) 1 person nominated by the National Association of State Utility Consumer advocates and appointed by the Secretary;

(E) 1 person nominated by the National Association of State Energy Officials and appointed by the Secretary;

(F) 1 person nominated by the National Energy Assistance Directors' Association and appointed by the Secretary; and

(G) 1 representative of the Environmental Protection Agency appointed by the Administrator.

(3) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Board shall establish an account or accounts at one of more financial institutions, which account or accounts shall be known as the System Benefits Trust Fund consisting of amounts deposited in the fund under subsection (d).

(2) STATUS OF FUND.—The wires charges collected under subsection (e) and deposited in the Fund—

(A) shall not constitute funds of the United States;

(B) shall be held in trust by the Board solely for the purposes stated in subsection (d); and

(C) shall not be available to meet any obligations of the United States.

(d) USE OF FUNDS.—

(1) FUNDING OF STATE PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States and Indian tribes for the support of State or tribal public benefits programs relating to—

(A) energy conservation and efficiency;

(B) renewable energy sources;

(C) assisting low-income households in meeting their home energy needs; or

(D) research and development in areas described in subparagraphs (A) through (C).

(2) DISTRIBUTION.—

(A) In general.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall distribute all amounts in the Fund to States or Indian tribes to fund public benefits programs under paragraph (1).

(B) FUNDS SHARE.—

(i) IN GENERAL.—Subject to clause (iii), the Fund share of a public benefits program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States and Indian tribes exceeds the maximum projected revenues of the Fund, the matching funds distributed to the States and Indian tribes shall be reduced by an amount that is proportionate to each State's annual consumption of electricity compared to the Nation's aggregate annual consumption of electricity.

(iii) ADDITIONAL STATE OR INDIAN TRIBE FUNDING.—A State or Indian tribe may apply funds to public benefits programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(3) PROGRAM CRITERIA.—The Board shall recommend eligibility criteria for public benefits programs funded under this section for approval by the Secretary of Energy.

(4) APPLICATION.—Not later than August 1 of each year beginning in 2002, a State or Indian tribe seeking matching funds for the following fiscal year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible public benefits program;

(B) stating the amount of State or Indian tribe funds earmarked for the program; and

(C) summarizing how System Benefit Trust Fund funds from the previous calendar year (if any) were spent by the State and what the State accomplished as a result of these expenditures.

(e) WIRES CHARGE.—

(1) DETERMINATION OF NEEDED FUNDING.—Not later than August 1 of each year, the Board shall determine and inform the Federal Energy Regulatory Commission of the aggregate amount of wires charges that will be necessary to be paid into the Fund to pay matching funds to States and Indian tribes and pay the operating costs of the Board in the following fiscal year.

(2) IMPOSITION OF WIRES CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Federal Energy Regulatory Commission shall impose a nonbypassable, competitively neutral wires charge, to be paid directly into the Fund by the operator of the wire, on electricity carried through the wire (measured as it exits the busbar at a generation facility, or, for electricity generated outside the United States, at the point of delivery to the wire operator's system) in interstate commerce.

(B) AMOUNT.—The wires charge shall be set at a rate equal to the lesser of

(i) 2.0 mills per kilowatt hour; or

(ii) a rate that is estimated to result in the collection of an amount of wires charges that is as nearly as possible equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly into the Fund at the end of each month during the calendar year for distribution by the Board under subsection (c).

(4) PENALTIES.—The Federal Energy Regulatory Commission may assess against a wire operator that fails to pay a wires charge as required by this subsection a civil penalty in an amount equal to not more than the amount of the unpaid wires charge.

(e) AUDITING.—

(1) IN GENERAL.—The Fund shall be audited annually by a firm or independent certified public accountants in accordance with generally accepted auditing standards.

(2) ACCESS TO RECORDS.—Representatives of the Secretary of Energy and the Federal Energy Regulatory Commission shall have access to all books, accounts, reports, files, and other records pertaining to the Fund as necessary to facilitate and verify the audit.

(3) REPORTS.—

(A) IN GENERAL.—A report on each audit shall be submitted to the Secretary of Energy, the Federal Energy Regulatory Commission, and the Secretary of the Treasury, who shall submit the report to the President and Congress not later than 180 days after the close of the fiscal year.

(B) REQUIREMENTS.—An audit report shall—

(i) set for the scope of the audit; and

(ii) include—

(I) a statement of assets and liabilities, capital, and surplus or deficit;

(II) a surplus or deficit analysis;

(III) a statement of income and expenses;

(IV) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(V) any recommendations with respect to the Fund that the Secretary of Energy or the Federal Energy Regulatory Commission may have.

SA 1422. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of

the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

''(6) ELECTRIC UTILITY.—The term 'electric utility' does not include—

''(A) the United States;

''(B) a State or political subdivision of a State;

''(C) an agency, authority, or instrumentality of the United States, a State, or political subdivision of a State; or

''(D) an electric cooperative.

SA 1423. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, between lines 18 and 19, insert the following:

Subtitle D—Growth of Nuclear Energy

SEC. 4___. COMBINED LICENSE PERIODS.

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

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

''c. LICENSE PERIOD.—

''(1) IN GENERAL.—Each such''; and

(2) by adding at the end the following:

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

Subtitle E—NRC Regulatory Reform

SEC. 4___. ANTITRUST REVIEW.

(a) IN GENERAL.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding at the end the following:

''d. ANTITRUST LAWS.—

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

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

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

''(4) APPLICABILITY.—This subsection shall not apply to such classes or type of licenses as the Commission, with the approval of the Attorney General, determines would not significantly affect the activities of a licensee under the antitrust laws.''.

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

''(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility under section 103 or 104b. that is filed on or after the date of enactment of subsection d.''.

SEC. 4___. DECOMMISSIONING.

(a) AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.—Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking ''and (3)'' and inserting ''(3)''; and

(2) by inserting before the semicolon at the end the following: '', and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility''.

(b) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—

''(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

''(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and

''(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170c. of that Act (42 U.S.C. 2210(c)) is terminated.''.

Subtitle F—NRC Personnel Crisis

SEC. 4___. ELIMINATION OF PENSION OFFSET.

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

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

SEC. 4___. NRC TRAINING PROGRAM.

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

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2004 through 2007.

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

SA 1424. Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

DIVISION B—ENERGY TAX INCENTIVES

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the ''Energy Tax Incentives Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 101. Extension and expansion of credit for electricity produced from certain renewable resources.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Sec. 201. Alternative motor vehicle credit.
Sec. 202. Modification of credit for qualified electric vehicles.
Sec. 203. Credit for installation of alternative fueling stations.
Sec. 204. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 205. Small ethanol producer credit.
Sec. 206. Increased flexibility in alcohol fuels tax credit.
Sec. 207. Incentives for biodiesel.
Sec. 208. Alcohol fuel and biodiesel mixtures excise tax credit.
Sec. 209. Sale of gasoline and diesel fuel at duty-free sales enterprises.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 301. Credit for construction of new energy efficient home.
Sec. 302. Credit for energy efficient appliances.
Sec. 303. Credit for residential energy efficient property.
Sec. 304. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 305. Energy efficient commercial buildings deduction.
Sec. 306. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 307. Three-year applicable recovery period for depreciation of qualified water submetering devices.
Sec. 308. Energy credit for combined heat and power system property.
Sec. 309. Credit for energy efficiency improvements to existing homes.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

Sec. 401. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies
Sec. 411. Credit for investment in qualifying advanced clean coal technology.
Sec. 412. Credit for production from a qualifying advanced clean coal technology unit.
Subtitle C—Treatment of Persons Not Able To Use Entire Credit
Sec. 421. Treatment of persons not able to use entire credit.
TITLE V—OIL AND GAS PROVISIONS
Sec. 501. Oil and gas from marginal wells.
Sec. 502. Natural gas gathering lines treated as 7-year property.
Sec. 503. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
Sec. 504. Environmental tax credit.
Sec. 505. Determination of small refiner exception to oil depletion deduction.
Sec. 506. Marginal production income limit extension.
Sec. 507. Amortization of delay rental payments.
Sec. 508. Amortization of geological and geophysical expenditures.
Sec. 509. Extension and modification of credit for producing fuel from a nonconventional source.
Sec. 510. Natural gas distribution lines treated as 15-year property.
Sec. 511. Credit for Alaska natural gas.
Sec. 512. Certain Alaska natural gas pipeline property treated as 7-year property.
Sec. 513. Arbitrage rules not to apply to prepayments for natural gas.
TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS
Sec. 601. Modifications to special rules for nuclear decommissioning costs.
Sec. 602. Treatment of certain income of cooperatives.
Sec. 603. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.
TITLE VII—ADDITIONAL PROVISIONS
Sec. 701. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 702. Study of effectiveness of certain provisions by GAO.
Sec. 703. Repeal of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general fund.
Sec. 704. Expansion of research credit.
TITLE VIII—REVENUE PROVISIONS
Subtitle A—Provisions Designed To Curtail Tax Shelters
Sec. 801. Penalty for failing to disclose reportable transaction.
Sec. 802. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 803. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 804. Disclosure of reportable transactions.
Sec. 805. Modifications to penalty for failure to register tax shelters.
Sec. 806. Modification of penalty for failure to maintain lists of investors.
Sec. 807. Penalty on promoters of tax shelters.
Subtitle B—Provisions to Discourage Corporate Expatriation
Sec. 821. Tax treatment of inverted corporate entities.
Sec. 822. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 823. Reinsurance of United States risks in foreign jurisdictions.
Subtitle C—Other Revenue Provisions
Sec. 831. Extension of Internal Revenue Service user fees.
Sec. 832. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 833. Individual expatriation to avoid tax.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 101. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—Subsection (c) of section 45 (relating to electricity produced from certain renewable resources) is amended to read as follows:

''(c) QUALIFIED ENERGY RESOURCES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy resources' means—

''(A) wind,

''(B) closed-loop biomass,

''(C) biomass (other than closed-loop biomass),

''(D) geothermal energy,

''(E) solar energy,

''(F) small irrigation power,

''(G) biosolids and sludge, and

''(H) municipal solid waste.''.

''(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

''(3) BIOMASS.—

''(A) IN GENERAL.—The term 'biomass' means—

''(i) any agricultural livestock waste nutrients, or

''(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush,

''(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

''(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

''(B) AGRICULTURAL LIVESTOCK WASTE NUTRIENTS.—

''(i) IN GENERAL.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

''(ii) AGRICULTURAL LIVESTOCK.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

''(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

''(5) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the installed capacity of which is less than 5 megawatts.

''(6) BIOSOLIDS AND SLUDGE.—The term 'biosolids and sludge' means the residue or solids removed in the treatment of commercial, industrial, or municipal wastewater.

''(7) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).''.

(b) EXTENSION AND EXPANSION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—Section 45 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) QUALIFIED FACILITIES.—For purposes of this section—

''(1) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

''(2) CLOSED-LOOP BIOMASS FACILITY.—

''(A) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

''(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

''(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

''(B) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii)—

''(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of the Energy Tax Incentives Act of 2003,

''(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

''(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

''(3) BIOMASS FACILITY.—

''(A) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which—

''(i) in the case of a facility using agricultural livestock waste nutrients, is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007, and

''(ii) in the case of any other facility, is originally placed in service before January 1, 2005.

''(B) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in subparagraph (A)(ii) which is placed in service before the date of the enactment of such Act—

''(i) subsection (a)(1) shall be applied by substituting '1.2 cents' for '1.5 cents', and

''(ii) the 5-year period beginning on January 1, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(C) CREDIT ELIGIBILITY.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the

credit allowable under subsection (a) shall be the lessee or the operator of such facility.

''(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

''(A) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

''(B) SPECIAL RULE.—In the case of any facility described in subparagraph (A), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(5) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

''(6) BIOSOLIDS AND SLUDGE FACILITY.—In the case of a facility using waste heat from the incineration of biosolids and sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007. Such term shall not include any property described in section 48(a)(6) the basis of which is taken into account for purposes of the energy credit under section 46.

''(7) MUNICIPAL SOLID WASTE FACILITY.—

''(A) IN GENERAL.—In the case of a facility or unit incinerating municipal solid waste to produce electricity, the term 'qualified facility' means any facility or unit owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

''(B) SPECIAL RULE.—In the case of any facility or unit described in subparagraph (A), the 5-year period beginning on the date the facility or unit was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(C) CREDIT ELIGIBILITY.—In the case of any qualified facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.''.

(2) NO CREDIT FOR CERTAIN PRODUCTION.—Section 45(e) (relating to definitions and special rules), as redesignated by paragraph (1), is amended by striking paragraph (6) and inserting the following new paragraph:

''(6) OPERATIONS INCONSISTENT WITH SOLID WASTE DISPOSAL ACT.—In the case of a qualified facility described in subsection (d)(6)(A), subsection (a) shall not apply to electricity produced at such facility during any taxable year if, during a portion of such year, there is a certification in effect by the Administrator of the Environmental Protection Agency that such facility was permitted to operate in a manner inconsistent with section 4003(d) of the Solid Waste Disposal Act (42 U.S.C. 6943(d)).''.

(3) CONFORMING AMENDMENT.—Section 45(e), as so redesignated, is amended by striking ''subsection (c)(3)(A)'' in paragraph (7)(A)(i) and inserting ''subsection (d)(1)''.

(c) CREDIT RATE FOR ELECTRICITY PRODUCED FROM NEW FACILITIES.—

(1) IN GENERAL.—Section 45(a) is amended by adding at the end the following new flush sentence:

''In the case of electricity produced after 2003 at any qualified facility originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003, paragraph (1) shall be applied by substituting '1.8 cents' for '1.5 cents'.''.

(2) NEW RATE NOT SUBJECT TO INFLATION ADJUSTMENT.—Section 45(b)(2) (relating to credit and phaseout adjustment based on inflation) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any amount which is substituted for the 1.5 cent amount in subsection (a) by reason of any provision of this section.''.

(d) ELIMINATION OF CERTAIN CREDIT REDUCTIONS.—Section 45(b)(3)(A) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting ''(other than proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103, or any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003)'' after ''project'' in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: ''This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).'', and

(5) by striking ''TAX-EXEMPT BONDS,'' in the heading and inserting ''CERTAIN''.

(e) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—Section 45(e) (relating to definitions and special rules), as redesignated by subsection (b)(1), is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

''(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(3) CREDIT RATE FOR NEW FACILITIES.—The amendments made by subsection (c) shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(4) NONAPPLICATION OF AMENDMENTS TO PREEFFECTIVE DATE POULTRY WASTE FACILITIES.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on the day before the date of the enactment of this Act) placed in service on or before such date of enactment.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A 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—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel

cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, 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) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

''(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

''If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

''If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

''If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

''(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

''If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

''(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

''If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

''(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

''If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

''(B) INCREASE FOR FUEL EFFICIENCY.—

''(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

''(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

''(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

''(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

''(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.

''(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

''(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

''If the model year is:	**The increased credit amount is:**
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

''(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

''If the model year is:	**46The increased credit amount is:**
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

''(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

''If the model year is:	**The increased credit amount is:**
2003	$12,000
2004	$10,000
2005	$8,000
2006	$6,000.

''(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

''(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

''(ii) MAXIMUM AVAILABLE POWER.—

''(I) PASSENGER AUTOMOBILE, MEDIUM DUTY PASSENGER VEHICLE, OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. 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 HYBRID MOTOR VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

''(i) which draws propulsion energy from onboard sources of stored energy which are both—

''(I) an internal combustion or heat engine using consumable fuel, and

''(II) a rechargeable energy storage system,

''(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

''(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(iii) which, in the case of a heavy duty hybrid motor vehicle, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission 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 ottocycle heavy duty engines, as applicable,

''(iv) the original use of which commences with the taxpayer,

''(v) which is acquired for use or lease by the taxpayer and not for resale, and

''(vi) which is made by a manufacturer.

''(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

''(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

''(1) ALLOWANCE OF 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.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

''(A) 40 percent, plus

''(B) 30 percent, if such vehicle—

''(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

''(ii) 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 gross vehicle weight rating, 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 2003.

''(3) INCREMENTAL 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 only capable of operating on an alternative fuel,

''(ii) the original use of which commences with the taxpayer,

''(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

''(iv) which is made by a manufacturer.

''(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

''(5) CREDIT FOR MIXED-FUEL VEHICLES.—

''(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

''(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

''(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

''(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (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) either—

''(I) has received a certificate of conformity under the Clean Air Act, or

''(II) 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 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

''(v) which is made by 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 at least 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.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(f) OTHER DEFINITIONS AND SPECIAL RULES.—

For purposes of this section—

''(1) MOTOR VEHICLE.—The term '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 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', '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 subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

''(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

''(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) 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 property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(8) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(10) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(11) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(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 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(h) TERMINATION.—This section shall not apply to any property purchased after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

''(2) in the case of any other property, December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(f)(4).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(9),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking ''10 percent of''.

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

''(A) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds—

''(i) except as provided in clause (ii) or (iii), $3,500,

''(ii) $6,000, if such vehicle is—

''(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

''(II) capable of a payload capacity of at least 1,000 pounds, and

''(iii) if such vehicle is a low-speed vehicle which conforms to Standard 500 prescribed by the Secretary of Transportation (49 C.F.R. 571.500), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

''(I) 10 percent of the manufacturer's suggested retail price of the vehicle, or

''(II) $1,500.

''(B) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

''(C) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

''(D) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.'', and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(B) Section 55(c)(2), as amended by this Act, is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

''(A) which is—

''(i) operated solely by use of a battery or battery pack, or

''(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,''.

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting ''or lease'' after ''use''.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting ''battery'' after ''qualified'' each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(C) The heading of section 30 is amended by inserting ''battery'' after ''qualified''.

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting ''battery'' after ''qualified''.

(E) Section 179A(c)(3) is amended by inserting ''battery'' before ''electric''.

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting ''BATTERY'' before ''ELECTRIC''.

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable

under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—

''(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(2) NO DEDUCTION ALLOWED UNDER SECTION 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e),''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

''In the case of any taxable year ending in—	**The applicable amount is—**
2003	30 cents
2004	40 cents
2005 and 2006	50 cents

''(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

''(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor

vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(5) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any new qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the alternative fuel retail sales credit determined under section 40A(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

''Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) 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.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ''30,000,000'' each place it appears and inserting ''60,000,000''.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii) and subclause (II) of section 38(c)(3)(A)(ii) are each amended by inserting ''or the small ethanol producer credit'' after ''employee credit''.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

''SEC. 87. ALCOHOL FUEL CREDIT.

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 206. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

(a) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

''(i) CREDIT MAY BE TRANSFERRED.—

''(1) IN GENERAL.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

''(2) QUALIFIED ASSIGNEE.—For purposes of this subsection, the term 'qualified assignee' means any person who—

''(A) is liable for taxes imposed under section 4081,

''(B) is registered under section 4101, and

''(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on and after the date of the enactment of this Act.

SEC. 207. INCENTIVES FOR BIODIESEL.

(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 inserting after section 40A the following new section:

''SEC. 40B. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

''(i) in the case of a mixture with only agri-biodiesel, 1 cent for each whole percentage point (not exceeding 20 percentage points) of agri-biodiesel in such mixture, and

''(ii) in the case of a mixture with recycled biodiesel, or a combination of agri-biodiesel and recycled biodiesel, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel fuel and biodiesel which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel in a diesel-powered engine, or

''(ii) is used as a fuel in a diesel-powered engine by the taxpayer producing such mixture.

''(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

''(i) IN GENERAL.—The production of a qualified biodiesel mixture shall be taken into account—

''(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

''(II) for the taxable year in which such sale or use occurs.

''(ii) CERTIFICATION FOR AGRI-BIODIESEL.—Agri-biodiesel used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the agri-biodiesel which identifies the product produced.

''(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any agri-biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such agri-biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids for use in diesel-powered engines which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) RECYCLED BIODIESEL.—The term 'recycled biodiesel' means biodiesel derived from nonvirgin vegetable oils or nonvirgin animal fats.

''(4) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates such biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the biodiesel fuels credit determined under section 40B(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year ending on or before the date of the enactment of section 40B.''.

(2) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40B(a).''.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

''Sec. 40B. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 208. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

''SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

''(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

''(1) the alcohol fuel mixture credit, plus

''(2) the biodiesel mixture credit.

''(b) ALCOHOL FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the applicable amount for each gallon of alcohol used by the taxpayer in producing an alcohol fuel mixture.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

''(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

''(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' is a mixture which—

''(A) consists of alcohol and a taxable fuel, and

''(B) is sold for use or used as a fuel by the taxpayer producing the mixture.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

''(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

''(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

''(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

''(5) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2010.

''(c) BIODIESEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of agri-biodiesel used by the taxpayer in producing any qualified biodiesel mixture containing only agri-biodiesel, except that the number of gallons of agri-biodiesel taken into account in determining the credit shall not exceed 1 gallon for each 5 gallons of qualified biodiesel mixture produced.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.

''(3) DEFINITIONS.—Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

''(4) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2005.

''(d) MIXTURE NOT USED AS A FUEL, ETC.—

''(1) IMPOSITION OF TAX.—If—

''(A) any credit was determined under this section with respect to alcohol or agri-biodiesel used in the production of any alcohol fuel mixture or qualified biodiesel mixture, respectively, and

''(B) any person—

''(i) separates such alcohol or agri-biodiesel from the mixture, or

''(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or agri-biodiesel.

''(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 40(c) is amended by striking ''section 4081(c), or section 4091(c)'' and inserting ''section 4091(c), section 6426, section 6427(e), or section 6427(f)''.

(2) Section 40(d)(4)(B) is amended by striking ''or 4081(c)''.

(3) Section 40(e)(1) is amended—

(A) by striking ''2007'' in subparagraph (A) and inserting ''2010'', and

(B) by striking ''2008'' in subparagraph (B) and inserting ''2011''.

(4) Section 40(h) is amended—

(A) by striking ''2007'' in paragraph (1) and inserting ''2010'', and

(B) by striking '', 2006, or 2007'' in the table contained in paragraph (2) and inserting ''through 2010''.

(5) Section 4041(b)(2)(B) is amended by striking ''a substance other than petroleum or natural gas'' and inserting ''coal (including peat)''.

(6) Paragraph (1) of section 4041(k) is amended to read as follows:

''(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the

sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 6426(b)(4)(A)), the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(c).''.

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

''(2) GASOLINE.—The term 'gasoline'—

''(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)) or a denaturant of alcohol (as defined in section 6426(b)(4)(A)), and

''(B) includes, to the extent prescribed in regulations—

''(i) any gasoline blend stock, and

''(ii) any product commonly used as an additive in gasoline.

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.''.

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

''(e) GASOLINE, DIESEL FUEL, AND KEROSENE USED TO PRODUCE CERTAIN ALCOHOL FUEL AND BIODIESEL MIXTURES.—

''(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or kerosene on which tax was imposed by section 4081 is used by any person in producing a mixture described in section 6426 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 alcohol fuel mixture credit or the biodiesel mixture credit with respect to such gasoline, diesel fuel, or kerosene.

''(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or kerosene with respect to which an amount is payable under subsection (b), (d), or (l) or under section 6416(b)(2), 6420, 6421, or 6426.

''(3) TERMINATION.—This subsection shall not apply with respect to—

''(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) sold or used after December 31, 2010, and

''(B) any qualified biodiesel mixture (within the meaning of section 6426(c)(1)) sold or used after December 31, 2005.''.

(10) Subsection (f) of section 6427 is amended to read as follows:

''(f) AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

''(1) IN GENERAL.—Except as provided in subsection (k), if any aviation fuel on which tax was imposed by section 4091 at the regular tax rate is used by any person in producing a mixture described in section 4091(c)(1)(A) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

''(2) DEFINITIONS.—For purposes of paragraph (1)—

''(A) REGULAR TAX RATE.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

''(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any aviation fuel with respect to which an amount is payable under subsection (d) or (l).

''(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.''.

(11) Paragraphs (1) and (2) of section 6427(i) are amended by inserting ''(f),'' after ''(d),''.

(12) Section 6427(i)(3) is amended—

(A) by striking ''subsection (f)'' both places it appears in subparagraph (A) and inserting ''subsection (e)'',

(B) by striking ''gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))'' in subparagraph (A) and inserting ''a mixture described in section 6426'',

(C) by striking ''subsection (f)(1)'' in subparagraph (B) and inserting ''subsection (e)(1)'',

(D) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(E) by striking ''ALCOHOL MIXTURE'' in the heading and inserting ''ALCOHOL FUEL AND BIODIESEL MIXTURE''.

(13) Section 6427(o) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

''(1) any tax is imposed by section 4081, and'',

(B) by striking ''such gasohol'' in paragraph (2) and inserting ''the alcohol fuel mixture (as defined in section 6426(b)(3))'',

(C) by striking ''gasohol'' both places it appears in the matter following paragraph (2) and inserting ''alcohol fuel mixture'', and

(D) by striking ''GASOHOL'' in the heading and inserting ''ALCOHOL FUEL MIXTURE''.

(14) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.''.

(15) Section 9503(b)(4) is amended—

(A) by adding ''or'' at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(16) Section 9503(c)(2)(A)(i)(III) is amended by inserting ''(other than subsection (e) thereof)'' after ''section 6427''.

(17) Section 9503(e)(2) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(18) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

''Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2003.

(d) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (b)(12)(D)) not later than September 30, 2003.

SEC. 209. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.''.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 301. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

''(i) in the case of a 30-percent home, $1,000, and

''(ii) in the case of a 50-percent home, $2,000.

''(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

''(i) 30-PERCENT HOME.—The term '30-percent home' means—

''(I) a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a qualifying new home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or

''(II) in the case of a qualifying new home which is a manufactured home, a home which meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

''(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which would be described in clause (i)(I) if 50 percent were substituted for 30 percent.

''(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—The amount of the credit otherwise allowable for the taxable year with respect to a qualifying new home under clause (i) or (ii) of subparagraph (A) shall be reduced by the sum of the credits allowed under subsection (a) to any taxpayer with respect to the home for all preceding taxable years.

''(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy credit (as determined under section 48(a)), and

''(B) expenditures taken into account under section 25D, 47, or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

''(A) the person who constructed the qualifying new home, or

''(B) in the case of a qualifying new home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualifying new home, such term means the person designated as such by the owner of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

''(3) QUALIFYING NEW HOME.—

''(A) IN GENERAL.—The term 'qualifying new home' means a dwelling—

''(i) located in the United States,

''(ii) the construction of which is substantially completed after the date of the enactment of this section, and

''(iii) the first use of which after construction is as a principal residence (within the meaning of section 121).

''(B) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(d) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method, or, in the case of a qualifying new home which is a manufactured home, by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

''(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance to properties which qualify under subparagraph (C).

''(C) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a new home—

''(I) heated by the same fuel type, and

''(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

''(A) in the case of a component-based method, a local building regulatory authority, a utility, or a home energy rating organization,

''(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes, or

''(C) in the case of a qualifying new home which is a manufactured home, a manufactured home primary inspection agency.

''(3) FORM.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and

''(i) in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home, and

''(ii) in the case of a qualifying new home which is a manufactured home, accompanied by such documentation as required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

''(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and solar heat gain coefficient for windows, skylights, and doors, labeled annual fuel utilization efficiency (AFUE) ratings for furnaces and boilers, labeled heating seasonal performance factor (HSPF) ratings for electric heat pumps, and labeled seasonal energy efficiency ratio (SEER) ratings for air conditioners.

''(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

''(e) APPLICATION.—Subsection (a) shall apply to qualifying new homes the construction of which is substantially completed after the date of the enactment of this section and purchased during the period beginning on such date and ending on—

''(1) in the case of any 30-percent home, December 31, 2005, and

''(2) in the case of any 50-percent home, December 31, 2007.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the new energy efficient home credit determined under section 45G(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).''.

(d) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of such section.''.

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits), as amended by this Act, is amended by striking ''and'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', and'', and by adding after paragraph (11) the following new paragraph:

''(12) the new energy efficient home credit determined under section 45G(a).''.

(f) 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. 45G. New energy efficient home credit.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to homes the construction of which is substantially completed after the date of the enactment of this Act.

SEC. 302. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(2) AMOUNT.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

''(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

''(1) APPLICABLE AMOUNT.—The applicable amount is—

''(A) $50, in the case of—

''(i) a clothes washer which is manufactured with at least a 1.42 MEF, or

''(ii) a refrigerator which consumes at least 10 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001,

''(B) $100, in the case of—

''(i) a clothes washer which is manufactured with at least a 1.50 MEF, or

''(ii) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator manufactured after 2006) less kilowatt hours per year than such energy conservation standards, and

''(C) $150, in the case of a refrigerator manufactured before 2007 which consumes at least 20 percent less kilowatt hours per year than such energy conservation standards.

''(2) ELIGIBLE PRODUCTION.—

''(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

''(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

''(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2000, 2001, and 2002.

''(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

''(i) clothes washers described in paragraph (1)(A)(i),

''(ii) clothes washers described in paragraph (1)(B)(i),

''(iii) refrigerators described in paragraph (1)(A)(ii),

''(iv) refrigerators described in paragraph (1)(B)(ii), and

''(v) refrigerators described in paragraph (1)(C).

''(c) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $60,000,000, of which not more than $30,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsection (b)(1)(A).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

''(B) a refrigerator described in subparagraph (A)(ii), (B)(ii), or (C) of subsection (b)(1).

''(2) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

''(3) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

''(e) SPECIAL RULES.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

''(2) AGGREGATION RULES.—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 1 person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply—

''(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

''(2) with respect to all other qualified energy efficient appliances produced after December 31, 2007.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the energy efficient appliance credit determined under section 45H(a).''.

(c) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45H. Energy efficient appliance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 303. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

''(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

''(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

''(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

''(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

''(A) $2,000 for property described in paragraph (1), (2), or (5) of subsection (d),

''(B) $500 for each 0.5 kilowatt of capacity of property described in subsection (d)(4), and

''(C) for property described in subsection (d)(6)—

''(i) $75 for each electric heat pump water heater,

''(ii) $250 for each electric heat pump,

''(iii) $250 for each advanced natural gas, oil, or propane furnace,

''(iv) $250 for each central air conditioner,

''(v) $75 for each natural gas, oil, or propane water heater, and

''(vi) $250 for each geothermal heat pump.

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER)—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

''(iii) are in effect at the time of the acquisition of the property.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property 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.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) 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(a)(4)) installed on or in connection with a dwelling unit located in the United

States and used as a principal residence (within the meaning of section 121) by the taxpayer.

''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

''(iii) an advanced natural gas, oil, or propane furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

''(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

''(v) a natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and

''(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

''(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

''(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined 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.

''(2) 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.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure 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.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(6) 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 48(a)(5)(C)).

''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)'' and inserting ''subsection (b)(3)''.

(B) Section 23(b)(4)(B) is amended by inserting ''and section 25C'' after ''this section''.

(C) Section 24(b)(3)(B) is amended by striking ''23 and 25B'' and inserting ''23, 25B, and 25C''.

(D) Section 25(e)(1)(C) is amended by inserting ''25C,'' after ''25B,''.

(E) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25C''.

(F) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(G) Section 904(h) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(H) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking ''section 1400C'' and inserting ''sections 25C and 1400C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting '', 25C,'' after ''sections 23''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following new paragraph:

''(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ''and section 25C'' after ''this section''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Residential energy efficient property.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 304. 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 adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property or qualified microturbine property,''.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48(a) (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED FUEL CELL PROPERTY.—

''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

''(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

''(II) has an electricity-only generation efficiency greater than 30 percent.

''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during

the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

''(iv) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.

''(B) QUALIFIED MICROTURBINE PROPERTY.—

''(i) IN GENERAL.—The term 'qualified microturbine property' means a stationary microturbine power plant which—

''(I) has a capacity of less than 2,000 kilowatts, and

''(II) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—The term 'qualified microturbine property' shall not include any property placed in service after December 31, 2006.''.

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, 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 day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 305. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

''SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year in which a building is placed in service by a taxpayer, an amount equal to the energy efficient commercial building property expenditures made by such taxpayer with respect to the construction or reconstruction of such building for the taxable year or any preceding taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building with respect to which the expenditures are made.

''(c) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means amounts paid or incurred for energy efficient property installed on or in connection with the construction or reconstruction of a building—

''(A) for which depreciation is allowable under section 167,

''(B) which is located in the United States, and

''(C) which is the type of structure to which the Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America is applicable.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(2) ENERGY EFFICIENT PROPERTY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'energy efficient property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which meets the minimum requirements of Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, using methods of calculation described in subparagraph (B) and certified by qualified individuals as provided under paragraph (5).

''(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power costs.

''(C) COMPUTER SOFTWARE.—

''(i) IN GENERAL.—Any calculation described in subparagraph (B) shall be prepared by qualified computer software.

''(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

''(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power costs as required by the Secretary,

''(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

''(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property expenditures made by a public entity with respect to the construction or reconstruction of a public building, the Secretary shall promulgate regulations under which the value of the deduction with respect to such expenditures which would be allowable to the public entity under this section (determined without regard to the tax-exempt status of such entity) may be allocated to the person primarily responsible for designing the energy efficient property. Such person shall be treated as the taxpayer for purposes of this section.

''(4) NOTICE TO OWNER.—Any qualified individual providing a certification under paragraph (5) shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

''(5) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings by qualified individuals described in subparagraph (B). Such procedures shall be—

''(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards, and

''(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the credit under this section regardless of whether such building uses a gas or oil furnace or boiler or an electric heat pump.

''(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy ratings organization, a local building regulatory authority, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this paragraph.

''(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(d) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(e) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(f) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with a building the construction of which is not completed on or before December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 179B(d).''.

(2) Section 1245(a) is amended by inserting ''179B,'' after ''179A,'' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence ''or by section 179B''.

(4) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 179B.''.

(5) Section 312(k)(3)(B) is amended by striking ''or 179A'' each place it appears in the heading and text and inserting '', 179A, or 179B''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

''Sec. 179B. Energy efficient commercial buildings deduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 306. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified energy management device.''.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

''(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—

''(A) IN GENERAL.—The term 'qualified energy management device' means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term 'energy management device' means any meter or metering device which is used by the taxpayer—

''(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

''(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 307. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) any qualified water submetering device.''.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

''(16) QUALIFIED WATER SUBMETERING DEVICE.—

''(A) IN GENERAL.—The term 'qualified water submetering device' means any water submetering device which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier with respect to the unit for which the device is placed in service.

''(B) WATER SUBMETERING DEVICE.—For purposes of this paragraph, the term 'water submetering device' means any submetering device which is used by the taxpayer—

''(i) to measure and record water usage data, and

''(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

''(C) ELIGIBLE RESUPPLIER.—For purposes of subparagraph (A), the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 308. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking ''or'' at the end of clause (ii), by adding ''or'' at the end of clause (iii), and by inserting after clause (iii) the following new clause:

''(iv) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48(a) (relating to energy credit), as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

''(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(iii) which produces—

''(I) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

''(v) which is placed in service before January 1, 2007.

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) PUBLIC UTILITY PROPERTY.—

''(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under this subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

''(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (i), (iii), and (iv) thereof.

''(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed a credit under this section for a combined heat and power system property which has a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.''.

(c) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 309. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

''SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

''(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 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATION.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

''(1) such component or combination of measures is installed in or on a dwelling which—

''(A) is located in the United States,

''(B) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

''(C) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component or combination of measures commences with the taxpayer, and

''(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—

''(1) METHODS OF CERTIFICATION.—

''(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

''(B) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

''(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

''(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

''(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

''(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

''(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined 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.

''(2) 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 paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) TERMINATION.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)'' and inserting ''subsection (b)(3)''.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(E) Section 25B(g)(2), as amended by this Act, is amended by striking ''23 and 25C'' and inserting ''23, 25C, and 25D''.

(F) Section 26(a)(1), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(G) Section 904(h), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(H) Section 1400C(d), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting '', 25D,'' after ''sections 25C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ''; and'',

and by adding at the end the following new paragraph:

''(33) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Energy efficiency improvements to existing homes.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 401. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A 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. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to—

''(1) the applicable amount of clean coal technology production credit, multiplied by

''(2) the applicable percentage of the sum of—

''(A) the kilowatt hours of electricity, plus

''(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

''(2) INFLATION ADJUSTMENT.—For calendar years after 2004, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

''(A) on the date of the enactment of this section—

''(i) was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit, and

''(ii) had a nameplate capacity rating of not more than 300 megawatts,

''(B) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

''(C) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

''(D) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

''(2) CLEAN COAL TECHNOLOGY UNIT.—The term 'clean coal technology unit' means a unit which—

''(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology, for the production of electricity,

''(B) uses coal to produce 75 percent or more of its thermal output as electricity,

''(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

''(D) has a maximum design net heat rate of not more than 9,500, and

''(E) meets the pollution control requirements of paragraph (3).

''(3) POLLUTION CONTROL REQUIREMENTS.—

''(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

''(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

''(I) subparagraph (B), or

''(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

''(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

''(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

''(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

''(ii) in the case of nitrogen oxide emissions—

''(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

''(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

''(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

''(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

''(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels, and chemicals output from such unit (determined without regard to such unit's co-generation of steam),

''(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate × [1− {((12,000-design coal heat content, Btu per pound)/1,000) × 0.013}],

''(C) shall be corrected for the site reference conditions of—

''(i) elevation above sea level of 500 feet,

''(ii) air pressure of 14.4 pounds per square inch absolute (psia),

''(iii) temperature, dry bulb of 63°F,

''(iv) temperature, wet bulb of 54°F, and

''(v) relative humidity of 55 percent, and

''(D) if carbon capture controls have been installed with respect to any qualifying unit and such controls remove at least 50 percent of the unit's carbon dioxide emissions, shall be adjusted up to the design heat rate level which would have resulted without the installation of such controls.

''(5) HHV.—The term 'HHV' means higher heating value.

''(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

''(7) INFLATION ADJUSTMENT FACTOR.—

''(A) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

''(B) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

''(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

''(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of this section, the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection,

''(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the megawatt capacity allocated to any unit under this subsection does not exceed 300 megawatts and the combined megawatt capacity allocated to all such units when all such units are placed in service during the 10-year period described in subsection (d)(1)(B), does not exceed 4,000 megawatts,

''(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

''(i) to encourage that units with the highest thermal efficiencies, when adjusted for

the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance, be placed in service as soon as possible, and

''(ii) to allocate capacity to taxpayers which have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

''(I) a site,

''(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

''(III) filings for all necessary preconstruction approvals,

''(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

''(V) such other factors that the Secretary determines are appropriate,

''(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

''(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units which become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

''(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the qualifying clean coal technology production credit determined under section 45I(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45I. Credit for production from a qualifying clean coal technology unit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 411. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the qualifying advanced clean coal technology unit credit.''.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

''(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

''(A)(i) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

''(ii) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

''(B) which is depreciable under section 167,

''(C) which has a useful life of not less than 4 years,

''(D) which is located in the United States,

''(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

''(F) which is not a qualifying clean coal technology unit, and

''(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

''(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

''(1) IN GENERAL.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

''(A) is—

''(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

''(ii) an eligible pressurized fluidized bed combustion technology unit,

''(iii) an eligible integrated gasification combined cycle technology unit, or

''(iv) an eligible other technology unit, and

''(B) meets the carbon emission rate requirements of paragraph (6).

''(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

''(B) has a design net heat rate of not more than 8,500 (8,900 in the case of units placed in service before 2009).

''(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

''(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013).

''(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

''(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013), and

''(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2009, and 40.2 percent in the case of units placed in service after 2008 and before 2013).

''(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

''(6) CARBON EMISSION RATE REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

''(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

''(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

''(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

''(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

''(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

''(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

''(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

''(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 750 megawatts in the case of units placed in service before 2009), and

''(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection and section 45J,

''(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

''(C) to provide a certification process described in section 45I(e)(3)(C),

''(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

''(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

''(4) SELECTION CRITERIA.—For purposes of this subsection, the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

''(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

''(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(ii), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

''(h) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.''.

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following rules shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction the numerator of which is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and the denominator of which is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.''.

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).''.

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting ''(2), and (6)''.

(3) Section 50(c) is amended by adding at the end the following new paragraph:

''(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.''.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

''Sec. 48A. Qualifying advanced clean coal technology unit credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 412. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) APPLICABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(A) If the qualifying advanced clean coal technology unit is producing electricity only:

"(i) In the case of a unit originally placed in service before 2009, if—

"The design net heat rate is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The design net heat rate is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,500	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The design net heat rate is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

"(B) If the qualifying advanced clean coal technology unit is producing fuel or chemicals:

"(i) In the case of a unit originally placed in service before 2009, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	$.0060	$.0038
Less than 40.6 but not less than 40 percent	$.0025	$.0010
Less than 40 but not less than 38.4 percent	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.6 percent	$.0105	$.0090
Less than 43.6 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	$.0140	$.0115
Less than 44.2 but not less than 43.9 percent	$.0120	$.0090.

"(2) SPECIAL RULE FOR UNITS QUALIFYING FOR GREATER APPLICABLE AMOUNT WHEN PLACED IN SERVICE.—If, at the time a qualifying advanced clean coal technology unit is placed in service, production from the unit would be entitled to a greater applicable amount if such unit had been placed in service at a later date, the applicable amount for such unit shall be such greater amount.

"(c) INFLATION ADJUSTMENT.—For calendar years after 2004, each dollar amount in subsection (b)(1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 421. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

"(1) ALLOWANCE OF CREDITS.—

"(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) TRANSFER OF CREDIT.—

"(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising

from the exercise of an essential government function.

''(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

''(4) USE BY TVA.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

''(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

''(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

''(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

''(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, transfers among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(B) shall be treated as transfers between unrelated parties.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE V—OIL AND GAS PROVISIONS

SEC. 501. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

''(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

''(I) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

''(II) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or domestic natural gas which is produced from a qualified marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) NONCOMPLIANCE WITH POLLUTION LAWS.—Production from any well during any period in which such well is not in compliance with applicable Federal pollution prevention, control, and permit requirements shall not be treated as qualified crude oil production or qualified natural gas production.

''(4) DEFINITIONS.—

''(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(D) DOMESTIC NATURAL GAS.—The term 'domestic natural gas' does not include Alaska natural gas (as defined in section 45M(c)(1)).

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than 1 owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting '', plus'', and by adding at the end the following new paragraph:

''(22) the marginal oil and gas well production credit determined under section 45K(a).''.

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) COORDINATION WITH SECTION 29.—Section 29(a) (relating to allowance of credit) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45K. Credit for producing oil and gas from marginal wells.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 502. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer, or

''(B) any other pipe, equipment, or appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

''(C)(ii) ..... 10''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 503. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

''SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

''(a) TREATMENT AS EXPENSE.—

''(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

''(2) LIMITATION.—

''(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

''(ii) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs or average retained production for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (but not below zero) by the product of—

''(I) such percentage (before the application of this clause), and

''(II) the ratio of such excess to 50,000 barrels.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means any costs which—

''(A) are otherwise chargeable to capital account, and

''(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

''(2) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

''(A) which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year, and

''(B) the average daily refinery run or average retained production of which for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.

''(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.

''(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(2) Section 263A(c)(3) is amended by inserting ''179C,'' after ''section''.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179B'' each place it appears in the heading and text and inserting ''179B, or 179C''.

(4) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', and'', and by adding at the end the following new paragraph:

''(34) to the extent provided in section 179C(d).''.

(5) Section 1245(a), as amended by this Act, is amended by inserting ''179C,'' after ''179B,'' both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

''Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 504. ENVIRONMENTAL TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45L. ENVIRONMENTAL TAX CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of low-sulfur diesel fuel produced at a facility by such small business refiner during such taxable year.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) with respect to such facility for any preceding year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

''(B) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179C(a)(2)(B)(ii).

''(c) DEFINITIONS.—For purposes of this section—

''(1) IN GENERAL.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179C.

''(2) LOW-SULFUR DIESEL FUEL.—The term 'low-sulfur diesel fuel' means diesel fuel containing not more than 15 parts per million of sulfur.

''(3) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

''(4) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

''(d) CERTIFICATION.—

''(1) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which a credit is allowed under this section with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

''(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

''(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

''(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

''(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the period described in paragraph (3) ends with respect to the taxpayer, and

''(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(f) COOPERATIVE ORGANIZATIONS.—

''(1) APPORTIONMENT OF CREDIT.—

''(A) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(B) FORM AND EFFECT OF ELECTION.—An election under subparagraph (A) 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.

''(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

''(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

''(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

''(3) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(A) such reduction, over

''(B) the amount not apportioned to such patrons under paragraph (1) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting '', plus'', and by adding at the end the following new paragraph:

''(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding at the end the following new subsection:

''(e) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45L. Environmental tax credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 505. DETERMINATION OF SMALL REFINER EXCEPTION 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 taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 506. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''2004'' and inserting ''2007''.

SEC. 507. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

''(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 mid-point 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 payments.

''(4) TREATMENT UPON ABANDONMENT.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

''(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) 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.

SEC. 508. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 167 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) 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 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

''(2) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''167(h), 167(i),'' after ''under section''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 509. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

''(h) EXTENSION FOR OTHER FACILITIES.—

''(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2007, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility before the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

''(2) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

''(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 3-year period beginning on the date such facility is placed in service.

''(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

''(3) WELLS PRODUCING VISCOUS OIL.—

''(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such well before the close of the 3-year period beginning on the date such well is placed in service.

''(B) VISCOUS OIL.—The term 'viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

''(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

''(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

''(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(2)(A) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

''(4) FACILITIES PRODUCING REFINED COAL.—

''(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

''(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

''(C) COVERED FACILITIES.—

''(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology which results in—

''(I) a qualified emission reduction, and

''(II) a qualified enhanced value.

''(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

''(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

''(iv) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNITS EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology unit (as defined in section 48A(b)).

''(5) COALMINE GAS.—

''(A) IN GENERAL.—This section shall apply to coalmine gas—

''(i) captured or extracted by the taxpayer during the period beginning after the date of the enactment of this subsection and ending before January 1, 2007, and

''(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such period.

''(B) COALMINE GAS.—For purposes of this paragraph, the term 'coalmine gas' means any methane gas which is—

''(i) liberated during or as a result of coal mining operations, or

''(ii) extracted up to 10 years in advance of coal mining operations as part of a specific plan to mine a coal deposit.

''(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine gas which is captured in advance of coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed.

''(D) NONCOMPLIANCE WITH POLLUTION LAWS.—This paragraph shall not apply to the capture or extraction of coalmine gas from coal mining operations with respect to any period in which such coal mining operations are not in compliance with applicable State and Federal pollution prevention, control, and permit requirements.

''(6) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

''(A) FUELS TREATED AS QUALIFIED FUELS.—Any fuel described in paragraph (2), (3), (4), or (5) shall be treated as a qualified fuel for purposes of this section.

''(B) DAILY LIMIT.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

''(C) CREDIT AMOUNT.—The dollar amount applicable under subsection (a)(1) shall be $3 (and the inflation adjustment under subsection (b)(2) shall not apply to such amount).''.

(b) CLARIFICATION OF PLACED IN SERVICE DATE FOR CERTAIN LANDFILL GAS FACILITIES.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(9) CLARIFICATION OF PLACED IN SERVICE DATE FOR CERTAIN LANDFILL GAS FACILITIES.—

''(A) IN GENERAL.—In the case of a landfill placed in service on or before the date of the enactment of this paragraph—

''(i) a facility for producing qualified fuel from such landfill shall include all wells, pipes, and related components used to collect landfill gas, and

''(ii) production of landfill gas from such landfill attributable to wells, pipes, and related components placed in service after such date of enactment shall be treated as produced from a facility placed in service on the date such wells, pipes, and related components were placed in service.

''(B) LANDFILL GAS.—The term 'landfill gas' means gas described in subsection (c)(1)(B)(ii) and derived from the biodegradation of municipal solid waste.''.

(c) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Section 29(f)(2) (relating to application of section) is amended by inserting ''(January 1, 2006, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

(d) STUDY OF COALBED METHANE.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study regarding the effect of section 29 of the Internal Revenue Code of 1986 on the production of coalbed methane.

(2) CONTENTS OF STUDY.—The study under paragraph (1) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coalbed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coalbed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coalbed methane which has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coalbed methane produced annually and in the aggregate since such enactment.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 510. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting '', and'', and by adding at the end the following new clause:

''(iv) any natural gas distribution line.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

''(E)(iv) ..... 20''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 511. CREDIT FOR ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45M. ALASKA NATURAL GAS.

''(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) Alaska natural gas the production of which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is $0.52 per 1,000,000 Btu of Alaska natural gas.

''(2) REDUCTION AS GAS PRICES INCREASE.—

''(A) IN GENERAL.—The dollar amount under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $0.83, bears to

''(ii) $0.52.

''(B) APPLICABLE REFERENCE PRICE.—For purposes of this paragraph—

''(i) IN GENERAL.—The applicable reference price for any calendar month in a taxable year is the reference price for the calendar month in which production occurs.

''(ii) REFERENCE PRICE.—The term 'reference price' means, with respect to any calendar month, a published market price for natural gas in United States dollars per 1,000,000 Btu (reduced by any gas transportation costs and gas processing costs as determined by the appropriate national regulatory body for natural gas transportation) as determined under regulations by the Secretary.

''(C) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in paragraph (1) and subparagraph (A) of this paragraph shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

''(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

''(I) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

''(II) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department

of Commerce before October 1 of such calendar year.

''(c) ALASKA NATURAL GAS.—For purposes of this section—

''(1) IN GENERAL.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(18) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

''(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

''(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

''(2) NATURAL GAS.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—

''(A) IN GENERAL.—In the case of a well in which there is more than 1 person or entity—

''(i) entitled to production of Alaska natural gas, or

''(ii) at the election of the taxpayer, entitled to the value of production as either an operating interest owner or a royalty interest owner,

the portion of such production attributable to such person or entity shall be determined on the basis of the ratio which the person's or entity's interest in the production or the value of production bears to the aggregate of the interests of all operating interest owners and royalty interest owners in the production or the value of production.

''(B) PARTNERSHIP PROPERTIES.—In the case of a partnership, for purposes of applying subparagraph (A), production shall be attributable to its partners based on each partner's distributive share of Alaska natural gas which is produced from partnership properties and attributable to the partnership or its partners under subparagraph (A).

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas during the period—

''(1) beginning with the later of—

''(A) January 1, 2010, or

''(B) the initial date for the interstate transportation of such Alaska natural gas, and

''(2) ending with the date which is 15 years after the date described in paragraph (1).''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) The Alaska natural gas credit determined under section 45M(a).''.

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

''(A) IN GENERAL.—In the case of the Alaska natural gas credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

''(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).''.

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting ''or the Alaska natural gas credit'' after ''producer credit''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45M. Alaska natural gas.''.

SEC. 512. CERTAIN ALASKA NATURAL GAS PIPELINE PROPERTY TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

''(iii) any Alaska natural gas pipeline, and''.

(b) ALASKA NATURAL GAS PIPELINE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(18) ALASKA NATURAL GAS PIPELINE.—The term 'Alaska natural gas pipeline' means the natural gas pipeline system located in the State of Alaska which—

''(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

''(B) is placed in service after December 31, 2014.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(ii) the following new item:

''(C)(iii) ..... 10''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014, in taxable years ending after such date.

SEC. 513. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Section 148(b) (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

''(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

''(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

''(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by or for a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract for the utility during any year does not exceed the sum of—

''(i) the annual average amount 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)—

''(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.—

''(i) NEW BUSINESS CUSTOMERS.—If—

''(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for use by a business at a property within the service area of such utility, and

''(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

''(ii) OVERALL LIMITATION.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

''(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

''(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

''(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

''(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

''(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

''(ii) APPLICABLE SHARE.—For purposes of clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

''(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to 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) by customers of such utility who are located within the service area of such utility, and

''(ii) the amount of natural gas used to transport such natural gas to the utility.

''(H) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

''(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

''(i) any area throughout which such utility provided at all times during the testing period—

''(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

''(II) in the case of an electric utility, electricity distribution services,

''(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

''(iii) any area recognized as the service area of such utility under State or Federal law.''.

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (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 148(b)(4)).''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 601. 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) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Section 468A(e) (relating to Nuclear Decommissioning Reserve Fund) is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

''(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

''(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.''.

(c) 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) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the excess of the total nuclear decommissioning costs with respect to such nuclear power plant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

''(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

''(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

''(C) TRANSFERS OF QUALIFIED FUNDS.—If—

''(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

''(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not the transferor. The preceding sentence shall not apply if the transferor is an entity exempt from tax under this chapter.

''(D) SPECIAL RULES.—

''(i) GAIN OR LOSS NOT RECOGNIZED.—No gain or loss shall be recognized on any transfer permitted by this subsection.

''(ii) TRANSFERS OF APPRECIATED PROPERTY.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall not exceed the adjusted basis of such property.

''(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

''(4) NO BASIS 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.''.

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

''(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and''.

(d) TECHNICAL AMENDMENT.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking ''rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''rate of 20 percent'',

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 602. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Section 501(c)(12)(C) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

''(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

''(iii) from any nuclear decommissioning transaction,

''(iv) from any asset exchange or conversion transaction, or

''(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.''.

(2) DEFINITIONS AND SPECIAL RULES.—Section 501(c)(12) is amended by adding at the end the following new subparagraphs:

''(E) For purposes of subparagraph (C)(ii)—

''(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

''(I) The provision or sale of electric transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

''(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

''(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

''(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

''(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

''(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

''(v) For purposes of this subparagraph—

''(I) The term 'transmission facility' means an electric output facility (other than a generation facility) which operates at an electric voltage of 69 kilovolts or greater. To the extent provided in regulations, such term includes any output facility which FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of

the enactment of the Energy Tax Incentives Act of 2003).

''(II) The term 'regional transmission organization' includes an independent system operator.

''(III) The term 'FERC' means the Federal Energy Regulatory Commission.

''(F) The term 'nuclear decommissioning transaction' means—

''(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

''(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

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

''(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

''(i) generating, transmitting, distributing, or selling electric energy, or

''(ii) producing, transmitting, distributing, or selling natural gas.''.

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

''(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

''(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

''(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

''(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

''(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

''(II) the megawatt hours of electric energy sold during the base year to such members.

''(v) For purposes of clause (iv)(II), the term 'base year' means—

''(I) the calendar year preceding the start-up year, or

''(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

''(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

''(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

''(I) the first year that such electric company offers nondiscriminatory open access, or

''(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

''(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

''(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.''.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.''.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

''(c) CROSS REFERENCE.—

''For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 603. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

''(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

''(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year (determined without regard to this subsection),

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

''(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2008, of—

''(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

''(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than January 1, 2008, or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

''(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

TITLE VII—ADDITIONAL PROVISIONS

SEC. 701. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination) is amended by striking ''2004'' and inserting ''2005''.

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination) is amended by striking ''2004'' and inserting ''2005''.

SEC. 702. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2004, and annually thereafter.

SEC. 703. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking ''or a diesel-powered train'' each place it appears and by striking ''or train''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Paragraph (3) of section 4083(a) is amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

SEC. 704. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE ENERGY RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium.''.

(2) ENERGY RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) ENERGY RESEARCH CONSORTIUM.—

''(A) IN GENERAL.—The term 'energy research consortium' means any organization—

''(i) which is—

''(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

''(II) organized and operated primarily to conduct energy research in the public interest (within the meaning of section 501(c)(3)),

''(ii) which is not a private foundation,

''(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for energy research, and

''(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for energy research.

''(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).''.

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting ''(other than an energy research consortium)'' after ''organization''.

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

''(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

''(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

''(I) an eligible small business,

''(II) an institution of higher education (as defined in section 3304(f)), or

''(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

''(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

''(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

''(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

''(iii) SMALL BUSINESS.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

''(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

''(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

TITLE VIII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 801. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty

should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction, or

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 802. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d) is amended—

(A) by striking subparagraphs (C) and (D) of paragraph (2), and

(B) by adding at the end the following:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 803. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 804. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 805. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the

date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 806. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 807. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

Subtitle B—Provisions to Discourage Corporate Expatriation

SEC. 821. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding

the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

''(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

''(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

''(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

''(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

''(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

''(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

''(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

''(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

''(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

''(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

''(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

''(E) TAX COURT REVIEW.—

''(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

''(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

''(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking ''and'' at the end of subparagraph (C), by inserting ''and'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,''.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved

in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 822. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

''(e) DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A). Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 823. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle C—Other Revenue Provisions

SEC. 831. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty

of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	Average fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7528. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 832. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''April 2, 2003''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 843. INDIVIDUAL EXPATRIATION TO AVOID TAX.

(a) EXPATRIATION TO AVOID TAX.—

(1) IN GENERAL.—Subsection (a) of section 877 (relating to treatment of expatriates) is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) IN GENERAL.—Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

''(2) INDIVIDUALS SUBJECT TO THIS SECTION.—This section shall apply to any individual if—

''(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $122,000,

''(B) the net worth of the individual as of such date is $2,000,000 or more, or

''(C) such individual fails to certify under penalty of perjury that he has met the requirements of this title for the 5 preceding taxable years or fails to submit such evidence of such compliance as the Secretary may require.

In the case of the loss of United States citizenship in any calendar year after 2003, such $122,000 amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '2002' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.''.

(2) REVISION OF EXCEPTIONS FROM ALTERNATIVE TAX.—Subsection (c) of section 877 (relating to tax avoidance not presumed in certain cases) is amended to read as follows:

''(c) EXCEPTIONS.—

''(1) IN GENERAL.—Subparagraphs (A) and (B) of subsection (a)(2) shall not apply to an individual described in paragraph (2) or (3).

''(2) DUAL CITIZENS.—

''(A) IN GENERAL.—An individual is described in this paragraph if—

''(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, and

''(ii) the individual has had no substantial contacts with the United States.

''(B) SUBSTANTIAL CONTACTS.—An individual shall be treated as having no substantial contacts with the United States only if the individual—

''(i) was never a resident of the United States (as defined in section 7701(b)),

''(ii) has never held a United States passport, and

''(iii) was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

''(3) CERTAIN MINORS.—An individual is described in this paragraph if—

''(A) the individual became at birth a citizen of the United States,

''(B) neither parent of such individual was a citizen of the United States at the time of such birth,

''(C) the individual's loss of United States citizenship occurs before such individual attains age 18½, and

''(D) the individual was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.''.

(3) CONFORMING AMENDMENT.—Section 2107(a) is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if the date of death occurs during a taxable year with respect to which the decedent is subject to tax under section 877(b).''.

(b) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—An individual who would not (but for this subsection) be treated as a citizen or resident of the United States shall continue to be treated as a citizen or resident of the United States until such individual—

''(1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, and

''(2) provides a statement in accordance with section 6039G.''.

(c) PHYSICAL PRESENCE IN THE UNITED STATES FOR MORE THAN 30 DAYS.—Section 877 (relating to expatriation to avoid tax) is amended by adding at the end the following new subsection:

''(g) PHYSICAL PRESENCE.—This section shall not apply to any individual for any taxable year during the 10-year period referred to in subsection (a) in which such individual is present (within the meaning of section 7701(b)(7) without regard to subparagraphs (B), (C), and (D) thereof) in the United States for more than 30 days in the calendar year ending in such taxable year, and such individual shall be treated for purposes of this title as a citizen or resident of the United States for such taxable year.''.

(d) TRANSFERS SUBJECT TO GIFT TAX.—Subsection (a) of section 2501 (relating to taxable transfers) is amended by adding at the end the following:

''(6) TRANSFERS OF CERTAIN STOCK.—

''(A) IN GENERAL.—Paragraph (3) shall not apply to the transfer of stock described in subparagraph (B) by any individual to whom section 877(b) applies, and section 2511(a)

shall be applied without regard to whether such stock is property which is situated within the United States.

''(B) VALUATION.—For purposes of subparagraph (A), the value of stock shall be determined as provided in section 2103, except that—

''(i) if the donor owned (within the meaning of section 958(a)) at the time of such transfer 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation, and

''(ii) if such donor owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of such transfer, more than 50 percent of—

''(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(II) the total value of the stock of such corporation,

then the portion of the fair market value of the stock of such foreign corporation transferred by such donor which is included for purposes of subparagraph (A) shall be the amount which bears the same ratio to such value as the fair market value of any assets owned by such foreign corporation and situated in the United States at the time of such transfer bears to the total fair market value of all assets owned by such foreign corporation at such time. For purposes of the preceding sentence, a donor shall be treated as owning stock of a foreign corporation at the time of such transfer if, at such time, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, he owned such stock.''.

(e) ENHANCED INFORMATION REPORTING FROM INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.—

(1) IN GENERAL.—Subsection (a) of section 6039G is amended to read as follows:

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual to whom section 877(b) applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).''.

(2) INFORMATION TO BE PROVIDED.—Subsection (b) of section 6039G is amended to read as follows:

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country, in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) information detailing the income, assets, and liabilities of such individual,

''(6) the number of days that the individual was present in the United States during the taxable year, and

''(7) such other information as the Secretary may prescribe.''.

(3) INCREASE IN PENALTY.—Subsection (d) of section 6039G is amended to read as follows:

''(d) PENALTY.—If—

''(1) an individual is required to file a statement under subsection (a) for any taxable year, and

''(2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of $5,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.''.

(4) CONFORMING AMENDMENT.—Section 6039G is amended by striking subsections (c), (f), and (g) and by redesignating subsections (d) and (e) as subsection (c) and (d), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who expatriate after February 27, 2003.

SA 1425. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1141 and insert the following:

SEC. 1141. NET METERING.

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

''(11) NET METERING.—

''(A) IN GENERAL.—On the request of any electric consumer served by an electric utility, the electric utility shall make available to the electric consumer net metering as provided in section 115(i).

''(B) CONSIDERATION BY STATE REGULATORY AUTHORITIES.—Notwithstanding subsections (b) and (c) of section 112, not later than 1 year after the date of enactment of this paragraph, a State regulatory authority may consider and make a determination concerning whether it is in the public interest to decline to implement subparagraph (A) in the State.

''(C) INCENTIVES.—Nothing in this paragraph precludes a State from establishing incentives to encourage on-site generating facilities and net metering in addition to the requirement under this subsection.

''(D) REPORTS.—Not later than 1 year after the date of enactment of this paragraph and annually thereafter, the Secretary shall submit to Congress a report that—

''(i) describes the status of implementation by the States of subparagraph (A);

''(ii) contains a list of pre-approved systems and equipment eligible for uniform interconnection treatment; and

''(iii) describes the public benefits that have been derived from net metering and interconnection standards.''.

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

''(i) NET METERING.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE ON-SITE GENERATING FACILITY.—The term 'eligible on-site generating facility' means—

''(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 25 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; and

''(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 1000 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high-efficiency system.

''(B) HIGH EFFICIENCY SYSTEM.—The term 'high efficiency system' means a system that is comprised of—

''(i) fuel cells; or

''(ii) combined heat and power.

''(C) NET METERING SERVICE.—The term 'net metering service' means service to an electric consumer, as provided in section 111(d)(11), under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

''(D) RENEWABLE ENERGY RESOURCE.—The term 'renewable energy resource' means solar, wind, biomass, micro-freeflow-hydro, or geothermal energy.

''(2) NET METERING SERVICE.—For the purposes of undertaking the consideration and making the determination with respect to the standard concerning net metering established by section 111(d)(11), the term 'net metering service' means a service provided in accordance with this subsection.

''(3) CHARGES BY AN ELECTRIC UTILITY.—An electric utility—

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

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

''(4) MEASUREMENT OF QUANTITIES.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period with a single bi-directional meter or otherwise in accordance with reasonable metering practices.

''(5) QUANTITY SOLD IN EXCESS OF QUANTITY SUPPLIED.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

''(6) QUANTITY SUPPLIED IN EXCESS OF QUANTITY SOLD.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (5); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period with—

''(i) a kilowatt-hour credit appearing on the bill for the following billing period; or

''(ii) a cash refund.

''(7) COMPLIANCE WITH STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(8) REQUIREMENTS.— The Commission, after consideration of all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories, and consultation with State

regulatory authorities and unregulated electric utilities, and after notice and opportunity for comment, shall promulgate additional control, testing, and interconnection requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.''.

SA 1426. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, between lines 5 and 6, insert the following:

SEC. 6___. NATIONWIDE MEDIA CAMPAIGN TO DECREASE OIL CONSUMPTION.

(a) IN GENERAL.—The Secretary of Energy, acting through the Assistant Secretary for Energy Efficiency and Renewable Energy (referred to in this section as the ''Secretary''), shall develop and conduct a national media campaign for the purpose of decreasing oil consumption in the United States over the next decade.

(b) CONTRACT WITH ENTITY.—The Secretary shall carry out subsection (a) directly or through—

(1) contracts with 1 or more nationally recognized media firms for the development and distribution of monthly television, radio, and newspaper public service announcements; or

(2) collective agreements with 1 or more nationally recognized institutes, businesses, or nonprofit organizations for the funding, development, and distribution of monthly television, radio, and newspaper public service announcements.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts made available to carry out this section shall be used for the following:

(A) ADVERTISING COSTS.—

(i) The purchase of media time and space.

(ii) Creative and talent costs.

(iii) Testing and evaluation of advertising.

(iv) Evaluation of the effectiveness of the media campaign.

(v) The negotiated fees for the winning bidder on requests from proposals issued either by the Secretary for purposes otherwise authorized in this section.

(vi) Entertainment industry outreach, interactive outreach, media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

(B) ADMINISTRATIVE COSTS.—Operational and management expenses.

(2) LIMITATIONS.—In carrying out this section, the Secretary shall allocate not less than 85 percent of funds made available under subsection (e) for each fiscal year for the advertising functions specified under paragraph (1)(A).

(d) REPORTS.—The Secretary shall annually submit to Congress a report that describes—

(1) the strategy of the national media campaign and whether specific objectives of the campaign were accomplished, including—

(A) determinations concerning the rate of change of oil consumption, in both absolute and per capita terms; and

(B) an evaluation that enables consideration whether the media campaign contributed to reduction of oil consumption;

(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the campaign;

(3) plans to purchase advertising time and space;

(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse; and

(5) all contracts or cooperative agreements entered into with a corporation, partnership, or individual working on behalf of the national media campaign.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2004 through 2008.

SA 1427. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 1424 submitted by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) and intended to be proposed to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 263, after line 18, insert:

SEC. ___. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: ''For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SA 1428. Mr. INHOFE (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, between lines 18 and 19, insert the following:

Subtitle D—Nuclear Infrastructure Security

SEC. 436. DEFINITIONS.

Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended—

(1) by redesignating subsection jj. as subsection ii.; and

(2) by adding at the end the following:

''jj. DESIGNATED NUCLEAR FACILITY.—The term 'designated nuclear facility' means a facility that the Commission classifies as a designated nuclear facility under section 170C(b).

''kk. PRIVATE SECURITY FORCE.—The term 'private security force', with respect to a designated nuclear facility, means personnel hired or contracted by the licensee or certificate holder of the designated nuclear facility to provide security at the designated nuclear facility.''.

SEC. 436A. DESIGNATED NUCLEAR FACILITY SECURITY.

(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. PROTECTION OF DESIGNATED NUCLEAR FACILITIES.

''(a) DEFINITIONS.—In this section:

''(1) CERTIFICATE HOLDER.—The term 'certificate holder' means the holder of a certificate of compliance issued by the Commission under this Act.

''(2) FEDERAL SECURITY COORDINATOR.—The term 'Federal security coordinator' means a Federal security coordinator as assigned under this Act.

''(3) DESIGN BASIS THREAT.—The term 'design basis threat' means the threat components or capability of an adversary against which a nuclear facility is responsible for defending under regulations, orders, or other directives of the Commission.

''(4) LICENSEE.—The term 'licensee' means the holder of a license issued by the Commission.

''(b) CLASSES OF DESIGNATED NUCLEAR FACILITY.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Commission shall, by regulation, establish classes of designated nuclear facility.

''(2) CLASSIFICATION.—The Commission shall classify facilities licensed by the Commission or issued a certificate by the Commission, including—

''(A) commercial nuclear power plants;

''(B) independent spent fuel storage installations;

''(C) decommissioned nuclear power plants;

''(D) fuel processing facilities;

''(E) gaseous diffusion facilities; and

''(F) any other facility that the Commission determines should be classified as a designated nuclear facility.

''(3) FACTORS.—In determining whether to classify a facility as a designated nuclear facility, the Commission shall consider—

''(A) the nature or type of facility;

''(B) the nature or type of potential radiological release from the facility; and

''(C) other factors relating to protecting public health and safety, the environment, and the common defense and security.

''(c) SECURITY EXAMINATION.—

''(1) IN GENERAL.—The Commission and the Secretary of Homeland Security, in consultation with other agencies and State and local governments as appropriate, shall examine—

''(A) potential threats to nuclear facilities, as appropriate, including consideration of—

''(i) threats comparable to the events of September 11, 2001;

''(ii) cyber threats, chemical threats, and biological threats;

''(iii) attacks on nuclear facilities by multiple coordinated teams of a large number of individuals;

''(iv) attacks by several persons, including persons employed at the nuclear facility, some of whom may have sophisticated knowledge of the operations of the nuclear facility;

''(v) attacks by individuals willing to commit suicide to carry out the attacks;

''(vi) intrusions originating from water or from the air; and

''(vii) fire, especially fire of a long duration;

''(B) classification of threats against nuclear facilities, as appropriate, as—

''(i) a type of threat falling under the responsibilities of the Federal Government, including an act by an enemy of the United States, whether a foreign government or any other person;

''(ii) a type of threat falling under the responsibility of a State or local government; or

''(iii) a type of threat the defense against which should be the responsibility of a licensee or certificate holder;

''(C) the national security response capability, including—

''(i) identification of the obligations and authorities of the United States for protection of areas (including waterways, ports,

roadways, airspace, or facilities in the vicinity of a nuclear facility) in the event of a terrorist threat or a terrorist attack against a nuclear facility, as appropriate;

''(ii) identification of the Federal, State, and local agencies responsible for carrying out the obligations and authorities of the United States identified under clause (i); and

''(iii) coordination between the Federal, State and local agencies identified under clause (ii), the Commission, and licensees or certificate holders of nuclear facilities, for protection of nuclear facilities and adjacent areas in the event of a terrorist threat or a terrorist attack;

''(D) coordination of Federal, State, and local security efforts to protect against terrorist or other criminal attacks at nuclear facilities, as appropriate;

''(E) 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 against a nuclear facility, including—

''(i) matters relating to the adequacy of emergency planning zones;

''(ii) matters relating to the adequacy and coordination of Federal, State, and local emergency planning and other measures; and

''(iii) matters relating to the adequacy of security plans for those nuclear facilities;

''(F) the system of threat levels, consistent with the Homeland Security Advisory System, used to categorize the threats pertinent to nuclear facilities, as appropriate, including—

''(i) procedures to ensure coordinated Federal, State, and local responses to changing threat levels for those nuclear facilities;

''(ii) monitoring of threats against those nuclear facilities; and

''(iii) procedures to notify licensees and certificate holders of those nuclear facilities of changes in threat levels;

''(H) the hiring and training standards for members of private security forces at nuclear facilities, as appropriate;

''(I) the coordination of Federal resources to expedite and improve the process of conducting background checks under section 149;

''(J) the establishment by the Secretary of Homeland Security of a program to provide technical assistance and training for the National Guard, State law enforcement agencies, and local law enforcement agencies to respond, as appropriate, to threats against nuclear facilities, as appropriate, including recommendations for the establishment of a grant program to assist State and local governments in carrying out any recommendations under paragraph (3); and

''(K) options for protecting spent fuel storage areas, such as dry cask storage, and associated infrastructure.

''(2) COMPLETION.—The Commission and the Secretary of Homeland Security shall complete the security examination under paragraph (1) not later than 1 year after the date of enactment of this section.

''(3) REPORT.—Not later than 180 days after completion of the security examination under paragraph (1), the Commission and the Secretary of Homeland Security shall submit to the President and Congress, in classified and unclassified form, a report with recommendations and findings.

''(d) REVISION OF DESIGN BASIS THREATS.—

''(1) IN GENERAL.—Not later than 180 days after completion of the report under subsection (c)(3), the Commission shall by regulation revise the design basis threats promulgated before the date of enactment of this section as the Commission determines to be appropriate based on the security examination.

''(2) APPLICABILITY.—A revised design basis threat under paragraph (1) shall apply to such classes of designated nuclear facility as the Commission determines to be appropriate.

''(3) PROTECTION OF SAFEGUARDS INFORMATION.—

''(A) IN GENERAL.—In promulgating any regulations under this subsection, the Commission shall ensure protection of information in accordance with chapter 12, section 181, and any other applicable law.

''(B) EFFECT OF SECTION.—Nothing in this section supersedes any law governing the disclosure of classified information or safeguards information.

''(C) REPORTS TO CONGRESS ON WITHHELD INFORMATION.—

''(i) REPORT.—Not later than 60 days after the effective date of the regulations required by this subsection, the Commission shall submit to Congress a report, in classified and unclassified form, describing any classified information, safeguards information, or other information that the Commission considered in promulgating the regulations but did not make available to the public because of the sensitive nature of the information.

''(ii) ORDERS TO LICENSEES OR CERTIFICATE HOLDERS.—Periodically, but not less than once every 6 months, the Commission shall submit to Congress a report, in classified and unclassified form, identifying any orders or instructions to operators, licensees, or certificate holders issued under the regulations required by this subsection that were not made public because of their classified content, safeguards content, or sensitive content.

''(e) THREAT LEVELS.—Not later than 150 days after the date of submission of the report under subsection (c)(3), the Commission shall establish a system for the determination of threat levels pertinent to—

''(1) such classes of designated nuclear facility as the Commission determines to be appropriate; and

''(2) materials subject to this Act as designated by the Commission.

''(f) SECURITY PLANS.—

''(1) IN GENERAL.—Pursuant to any action taken by the Commission under subsection (d)(1) to revise a design basis threat, not later than 30 days after the revised design basis threat under subsection (d) becomes effective, the Commission shall require each licensee or certificate holder of a designated nuclear facility that is subject to the revised design basis threat to—

''(A) revise the security plan of that designated nuclear facility to ensure that that designated nuclear facility protects against the appropriate design basis threats; and

''(B) submit the security plan to the Commission for review.

''(2) REVIEW SCHEDULE.—The Commission shall establish a priority schedule for conducting reviews of security plans based on—

''(A) the proximity of the designated nuclear facility to large population areas; and

''(B) other critical factors identified by the Commission.

''(3) UPGRADES TO SECURITY.—The Commission shall ensure that the licensee or certificate holder of each designated nuclear facility that is subject to the revised design basis threat makes any changes to security and the security plan required from the Commission review on a schedule established by the Commission, but not to exceed 18 months after completion of the review.

''(g) EMERGENCY RESPONSE PLANS AND PREPAREDNESS.—

''(1) IN GENERAL.—The Commission and the Secretary of Homeland Security, in consultation with other Federal, State, and local government agencies, as appropriate, shall review and update the requirements in effect on the date of enactment of this section for on-site and off-site emergency response plans and preparedness for response to an emergency involving a designated nuclear facility in such classes of designated nuclear facility as the Commission determines to be appropriate to ensure that the requirements—

''(A) are adequate to protect public health and safety;

''(B) provide reasonable assurance that the plans can and will be implemented; and

''(C) provide reasonable assurance that adequate protective measures can and will be taken in the event of such an emergency.

''(2) REQUIREMENTS.—At a minimum, the updated requirements applicable to a designated nuclear facility under paragraph (1) shall provide for—

''(A) the establishment of, clear definition of, assignment of, and assurance of the ability to carry out, responsibilities of emergency response organizations and personnel among the licensee or certificate holder, State and local organizations, and other supporting organizations;

''(B) methods and procedures for the clear and prompt notification of State and local response organizations and the public by the licensee or certificate holder;

''(C) methods and procedures for prompt communication and coordination among emergency response organizations and personnel and the public;

''(D) dissemination of information to the public, including pre-emergency education on a periodic basis and in the event of an actual emergency;

''(E) adequate emergency facilities and equipment at and around the designated nuclear facility;

''(F) the use of appropriate methods, systems, and equipment for assessing and monitoring actual and potential impacts of an emergency, including a radiological emergency;

''(G) a range of protective actions for the public, including appropriate evacuation and sheltering and the prophylactic use of potassium iodide;

''(H) means for controlling radiological exposures and other hazardous exposures;

''(I) appropriate medical services;

''(J) recovery and reentry plans; and

''(K) radiological emergency response training.

''(3) FACTORS.—The updated requirements under paragraph (1) shall address relevant factors, including—

''(A) population density, topography, land characteristics, access routes, and jurisdictional boundaries;

''(B) unique aspects of an emergency resulting from a terrorist attack;

''(C) available technology and technical innovations; and

''(D) other factors, as determined by the Commission or the Secretary of Homeland Security.

''(4) STAKEHOLDER INVOLVEMENT.—In updating requirements under paragraph (1), the Commission and the Secretary of Homeland Security shall include requirements for appropriate stakeholder involvement in the planning and exercise process, including the involvement of—

''(A) local governments;

''(B) large employers;

''(C) facilities such as schools, hospitals, nursing homes, and prisons;

''(D) advocacy groups; and

''(E) other interested groups and individuals near a designated nuclear facility.

''(5) REGULATIONS.—

''(A) IN GENERAL.—The Commission and the Secretary of Homeland Security shall promulgate regulations implementing this subsection not later than 180 days following the completion of the report under subsection (c)(3).

''(B) EFFECTIVE DATE.—The regulations shall take effect not later than 90 days after the date of promulgation.

''(6) REVIEWS.—

''(A) IN GENERAL.—Not later than 60 days after the effective date of the regulations under paragraph (5), the Commission, in coordination with the Secretary of Homeland Security and, as appropriate, in consultation with other Federal, State, and local government agencies, shall begin reviewing on-site and off-site emergency response plans and preparedness capabilities for compliance with the regulations.

''(B) REVIEW SCHEDULE.—The Commission, in coordination with the Secretary of Homeland Security, shall establish a priority schedule for conducting reviews of emergency response plans and preparedness capabilities under subparagraph (A) based on the relative vulnerability of the designated nuclear facilities that are subject to the regulations and the proximity of the designated nuclear facilities to high population density areas.

''(C) REPORT.—The Commission, in coordination with the Secretary of Homeland Security, shall submit to Congress a report, in classified and unclassified form, describing the results of each review conducted under subparagraph (A).

''(7) EFFECT OF SUBSECTION.—Nothing in this subsection limits the authority of the Commission or the Secretary of Homeland Security to take other actions for protection of the public health and safety, the environment, or the common defense and security under any other authority of the Commission or the Secretary of Homeland Security.

''(h) EMPLOYEE SECURITY.—

''(1) REVIEW.—Not later than 180 days after the date of enactment of this section, the Commission shall review and update as appropriate the access and training standards for employees of nuclear facilities.

''(2) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Commission shall establish qualifications and procedures, in addition to fingerprinting for criminal history record checks conducted under section 149, to ensure that no individual who presents a threat to national security is employed at a designated nuclear facility in such classes of designated nuclear facility as the Commission determines to be appropriate.

''(i) FEDERAL SECURITY COORDINATORS.—

''(1) REGIONAL OFFICES.—Not later than 18 months after the date of enactment of this section, the Commission shall assign a Federal security coordinator, under the employment of the Commission, to each region of the Commission.

''(2) RESPONSIBILITIES.—The Federal security coordinator shall be responsible for—

''(A) communicating with the Commission and other Federal, State, and local authorities concerning threats, including threats against a designated nuclear facility in such classes of designated nuclear facilities as the Commission determines to be appropriate;

''(B) ensuring that a designated nuclear facility in such classes of designated nuclear facility as the Commission determines to be appropriate maintains security consistent with the security plan in accordance with the appropriate threat level; and

''(C) assisting in the coordination of security measures among—

''(i) the private security force at a designated nuclear facility in such classes of designated nuclear facilities as the Commission determines to be appropriate; and

''(ii) Federal, State, and local authorities, as appropriate.

''(3) ADDITIONAL FEDERAL SECURITY COORDINATORS.—

''(A) IN GENERAL.—The Commission may assign an additional Federal security coordinator, as the Commission considers appropriate, to a Commission office on the site of a designated nuclear facility.

''(B) REQUEST BY GOVERNOR.—The Governor of any State that contains a designated nuclear facility may request the assignment of an additional Federal security coordinator to 1 or more designated nuclear facilities in that State.

''(j) NATIONAL SECURITY CAPABILITY.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the President shall identify the national security support capability to protect designated nuclear facilities against terrorist threats and attacks.

''(2) ELEMENTS.—The national security support capability shall use capabilities of such Federal agencies identified in the report under subsection (c)(3), or of other Federal, State, and local agencies, as the President determines to be appropriate.

''(3) CAPABILITIES.—

''(A) IN GENERAL.—The national security support capability shall provide assistance to the private security force at each designated nuclear facility in such classes of designated nuclear facilities as the Commission determines to be appropriate, appropriate State and local agencies including emergency response and law enforcement agencies, and where appropriate, the National Guard, in accordance with the obligations and authorities of the United States, as identified in the report to Congress required under subsection (c)(3).

''(B) COORDINATION.—The President shall ensure that effective coordination exists between Federal agencies, the Commission, and State and local governments in planning and deployment for prevention, deterrence, and response to actual or potential terrorist attacks against such classes of designated nuclear facility as the Commission considers appropriate.

''(4) TRAINING PROGRAM.—

''(A) IN GENERAL.—The President shall establish a program to provide technical assistance and training to Federal agencies, the National Guard, and State and local law enforcement and emergency response agencies in responding to threats against a designated nuclear facility.

''(B) GRANTS.—The President may provide grants to State and local governments to assist in carrying out subparagraph (A).

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

''(k) CLASSIFIED INFORMATION.—Nothing in this section supersedes any law governing the disclosure of classified information or safeguards information.''.

(b) FINGERPRINTING FOR CRIMINAL HISTORY RECORD CHECKS.—Section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) is amended—

(1) in subsection a.—

(A) by striking ''a. The Nuclear'' and all that follows through ''section 147.'' and inserting the following:

''a. IN GENERAL.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—The Commission shall require—

''(i) each licensee, certificate holder, or applicant for a license or certificate to operate a utilization facility under section 103 or 104(b); and

''(ii) each licensee or applicant for a license to possess or use radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks;

to fingerprint each individual described in subparagraph (B).

''(B) INDIVIDUALS REQUIRED TO BE FINGERPRINTED.—The Commission shall require to be fingerprinted each individual who—

''(i) is permitted unescorted access to—

''(I) a utilization facility; or

''(II) radioactive material or other property identified by the Commission under subparagraph (A)(ii); or

''(ii) is permitted access to safeguards information under section 147.'';

(B) by striking ''All fingerprints'' and inserting the following:

''(2) SUBMISSION TO THE ATTORNEY GENERAL.—All fingerprints'';

(C) by striking ''The costs'' and inserting the following;

''(3) COSTS.—The costs'';

(D) by striking ''Notwithstanding'' and inserting the following:

''(4) PROVISION TO LICENSEE, CERTIFICATE HOLDER, OR APPLICANT.—Notwithstanding''; and

(E) by striking ''licensee or applicant'' each place it appears and inserting ''licensee, certificate holder, or applicant for a license or certificate'';

(2) by redesignating subsection d. as subsection e.; and

(3) by inserting after subsection c. the following:

''d. USE OF OTHER BIOMETRIC METHODS.—Any requirement for a person to conduct fingerprinting under this section may be satisfied by using any other biometric method for identification approved for use by the Attorney General.''.

SEC. 436B. OFFICE OF NUCLEAR SECURITY AND INCIDENT RESPONSE.

(a) IN GENERAL.—Title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended by adding at the end the following:

''SEC. 212. OFFICE OF NUCLEAR SECURITY AND INCIDENT RESPONSE.

''(a) DEFINITIONS.—In this section:

''(1) CERTIFICATE HOLDER.—The term 'certificate holder' has the meaning given the term in section 170C(a) of the Atomic Energy Act of 1954.

''(2) DESIGNATED NUCLEAR FACILITY.—The term 'designated nuclear facility' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

''(3) DIRECTOR.—The term 'Director' means the Director of Nuclear Security and Incident Response appointed under subsection (c) to head the Office.

''(4) LICENSEE.—The term 'licensee' has the meaning given the term in section 170C(a) of the Atomic Energy Act of 1954.

''(5) OFFICE.—The term 'Office' means the Office of Nuclear Security and Incident Response established by subsection (b).

''(b) ESTABLISHMENT OF OFFICE.—There is established in the Commission the Office of Nuclear Security and Incident Response.

''(c) DIRECTOR.—

''(1) APPOINTMENT.—The Commission may appoint and remove from office a Director of Nuclear Security and Incident Response.

''(2) DUTIES.—

''(A) IN GENERAL.—The Director shall perform such functions as the Commission delegates to the Director.

''(B) FUNCTIONS.—The functions delegated to the Director may include—

''(i) carrying out security, safeguards, and incident responses relating to—

''(I) any facility subject to the jurisdiction of the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

''(II) any property subject to the jurisdiction of the Commission under the Atomic

Energy Act of 1954 (42 U.S.C. 2011 et seq.) that—

''(aa) is significant to the common defense and security; or

''(bb) is being transported to or from a facility described in clause (i); and

''(III) any other activity of a licensee or certificate holder, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), that is significant to the common defense and security;

''(ii) for a facility or material licensed or certified under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.)—

''(I) developing contingency plans for dealing with threats, thefts, and sabotage; and

''(II) monitoring, reviewing, and evaluating security and safeguards;

''(iii) recommending upgrades to internal accounting systems for special nuclear and other materials licensed or certified under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); and

''(iv) developing and recommending standards and amendments to the standards of the Commission relating to the duties described in clauses (i) through (iii); and

''(E) carrying out such other duties of the Commission regarding safeguards and physical security functions and incident response functions as the Commission determines to be appropriate.

''(3) CONSULTATION.—In carrying out the duties under paragraph (2), the Director shall, to the extent practicable, consult and coordinate with other Federal agencies.

''(d) SECURITY RESPONSE EVALUATIONS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Commission shall establish a security response evaluation program to assess the ability of each designated nuclear facility that is part of a class of designated nuclear facilities that the Commission considers appropriate to defend against threats in accordance with the security plan for the designated nuclear facility.

''(2) FREQUENCY OF EVALUATIONS.—Not less than once every 3 years, the Commission shall conduct and document security response evaluations at each designated nuclear facility that is part of a class of designated nuclear facilities that the Commission considers appropriate to assess the ability of the private security force of the designated nuclear facility to defend against applicable design basis threats.

''(3) SECURITY EXEMPTION.—The Commission may suspend activities under this section if the Commission determines that the security response evaluations would compromise security at any designated nuclear facility in accordance with a heightened threat level.

''(4) ACTIVITIES.—The security response evaluation shall include force-on-force exercises that simulate the security threats consistent with the design basis threats applicable to the designated nuclear facility.

''(5) PERFORMANCE CRITERIA.—The Commission shall establish performance criteria for judging the security response evaluations.

''(6) CORRECTIVE ACTION.—

''(A) IN GENERAL.—When any of the performance criteria established under paragraph (5) are not satisfied—

''(i) the licensee or certificate holder shall promptly correct any defects in performance identified by the Commission in the security response evaluation; and

''(ii) the Commission shall conduct an additional security response evaluation within 9 months to confirm that the licensee or certificate holder satisfies the performance criteria established under paragraph (5).

''(B) 2 CONSECUTIVE FAILURES TO SATISFY PERFORMANCE CRITERIA.—

''(i) IN GENERAL.—If a designated nuclear facility fails to satisfy the performance criteria established under paragraph (5) in 2 consecutive security response evaluations, the Commission shall issue an order specifying the corrective actions that must be taken by the licensee or certificate holder of the designated nuclear facility.

''(ii) FAILURE TO TAKE CORRECTIVE ACTION.—If the licensee or certificate holder of a designated nuclear facility does not take the corrective action specified by the Commission within 30 days after the date of issuance of an order under clause (i), the Commission shall assess a civil penalty under section 234 of the Atomic Energy Act of 1954 (42 U.S.C. 2282).

''(C) EFFECT.—Nothing in this paragraph limits any enforcement authority of the Commission to take action in response to deficiencies identified through security evaluations.

''(7) REPORTS.—Not less often than once every year, the Commission shall submit to Congress and the President a report, in classified form and unclassified form, that describes the results of each security response evaluation under this paragraph for the previous year.

''(e) EMERGENCY RESPONSE EXERCISES.—

''(1) IN GENERAL.—Not less than once every 2 years, the Commission, in coordination with the Secretary of Homeland Security and, as appropriate, in consultation with other Federal, State, and local response agencies and stakeholders, shall observe and evaluate emergency response exercises to determine whether—

''(A) on-site and off-site emergency response plans for, and capabilities for response to an emergency involving, each designated nuclear facility in such classes of designated nuclear facility as the Commission determines to be appropriate are adequate to protect public health and safety; and

''(B) there is reasonable assurance that—

''(i) those plans and capabilities can and will be implemented; and

''(ii) adequate protective measures can and will be taken in the event of an emergency.

''(2) ASSESSMENT OF ABILITY TO RESPOND.—Exercises under paragraph (1) shall assess the ability of Federal, State, and local emergency response agencies and emergency response personnel of a licensee or certificate holder to respond adequately to an emergency involving the designated nuclear facility.

''(3) HIGH POPULATION DENSITY AREAS.—The Commission, in coordination with the Secretary of Homeland Security and, as appropriate, in consultation with other Federal, State, and local agencies and stakeholders, may observe and evaluate exercises more frequently at designated nuclear facilities located in high population density areas.

''(4) PERFORMANCE-BASED APPROACH.—The Commission, in cooperation with the Secretary of Homeland Security, shall promptly establish performance criteria for use in evaluating the results of the exercises under paragraph (1), including criteria relating to—

''(A) response times and capabilities;

''(B) coordination and communication among response personnel and organizations;

''(C) emergency equipment, public notification systems, and communications networks;

''(D) feasible evacuation of individuals; and

''(E) other matters determined by the Commission or the Secretary of Homeland Security.

''(5) SCENARIOS.—The evaluations under paragraph (1) shall assess the ability of the emergency response plans to protect public health and safety and provide reasonable assurance that adequate protective measures can and will be taken in responding to a broad range of accident scenarios, including—

''(A) fast-breaking events that occur with little or no warning;

''(B) radiological releases of significant magnitude;

''(C) significant spontaneous evacuations;

''(D) significant shadow evacuations;

''(E) terrorist attacks; and

''(F) other scenarios determined by the Commission or the Secretary of Homeland Security.

''(6) DEFICIENCIES.—

''(A) NOTIFICATION.—The Commission, in coordination with the Secretary of Homeland Security, shall promptly notify licensees or certificate holders, the Governor of any State that may be affected, and any other appropriate Federal, State, or local agencies or stakeholders of any weaknesses or deficiencies in an emergency response plan or in emergency preparedness capabilities identified as the result of an evaluation under paragraph (1).

''(B) FAILURE TO CORRECT.—If weaknesses or deficiencies in emergency response plans or in preparedness capabilities are not promptly corrected, the Commission shall take appropriate action under section 107 or other enforcement authorities available to the Commission to—

''(i) ensure adequate protection of public health and safety; and

''(ii) provide reasonable assurance that plans can and will be implemented and that adequate protective measures can and will be taken in the event of an emergency.

''(7) REPORT.—Not less than once annually, the Commission and the Secretary of Homeland Security shall submit to the President and Congress a report, in classified and unclassified form, that describes—

''(A) the results of each exercise evaluated in the previous year; and

''(B) each revision of an emergency response plan or emergency preparedness capabilities made under paragraph (6) in the previous year that is substantive in nature.

''(8) MAINTENANCE.—The Commission shall take such action as is necessary to ensure that adequate emergency response plans and capabilities are maintained during the intervals between exercises.

''(9) EFFECT OF SUBSECTION.—Nothing in this subsection limits the authority of the Commission or the Secretary of Homeland Security to take other actions for protection of the public health and safety, the environment, or the common defense and security under any other authority of the Commission or the Secretary of Homeland Security.

''(f) EFFECT.—Nothing in this section limits any authority of the Secretary of Energy relating to the security and safeguarding of special nuclear materials, high-level radioactive waste, and nuclear facilities resulting from all activities under the jurisdiction of the Secretary.''.

(b) CONFORMING AMENDMENTS.—Title II of the Energy Reorganization Act of 1974 is amended—

(1) in section 203(b) (42 U.S.C. 5843(b))—

(A) in paragraph (1), by striking ''licensing and regulation involving'' and inserting ''licensing, regulation, and, except as otherwise provided under section 212, carrying out safety reviews, safeguards, and physical security of''; and

(B) in paragraph (2), by striking ''and safeguards''; and

(2) in section 204(b) (42 U.S.C. 5844(b))—

(A) in paragraph (1)—

(i) by striking ''including'' and inserting ''not including''; and

(ii) by striking ''and materials.'' and inserting ''and materials, to the extent that the safeguards and security functions are

delegated to the Office of Nuclear Security and Incident Response under section 212.'';

(B) in paragraph (2)—

(i) by striking ''and safeguards''; and

(ii) by striking '', as amended,'' and all that follows through the period and inserting ''(42 U.S.C. 2011 et seq.)''.

SEC. 436C. GUARDING OF NUCLEAR FACILITIES, EQUIPMENT, AND MATERIAL.

(a) TRANSPORTING OF SHORT-BARRELED SHOTGUN OR RIFLE.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (a)(4), by striking ''or licensed collector,'' and inserting the following: ''licensed collector, or a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or an employee or contractor of such a licensee or certificate holder, that holds the license or certificate for the purpose of establishing and maintaining an on-site physical protection system and security organization required by Federal law or for the purpose of licensee-authorized or certificate holder-authorized training or transportation of nuclear material or equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.),''; and

(2) in subsection (o)(2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(C) a transfer to a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of the licensee or certificate holder on-site for such purposes or off-site for purposes of licensee-authorized or certificate holder-authorized training or transportation of nuclear materials or equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).''.

(b) AUTHORIZATION FOR IMPORTATION OF FIREARM OR AMMUNITION.—Section 925(d)(1) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' before ''is being''; and

(2) by inserting after the semicolon the following: ''or

''(B) is being imported or brought in for transfer to a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law;''.

(c) INTERSTATE TRANSPORTATION OF FIREARMS.—Section 926A of title 18, United States Code, is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(a) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(b) LICENSEES AND CERTIFICATE HOLDERS OF THE NUCLEAR REGULATORY COMMISSION.—Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision of a State, a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or an employee or contractor of such a licensee or certificate holder, that is not otherwise prohibited by this chapter from transporting, shipping, receiving, or possessing a firearm shall be entitled to transport and possess a firearm for purposes of establishing and maintaining an onsite physical protection system and security organization required by Federal law, and for purposes of licensee-authorized or certificate holder-authorized training or transportation of nuclear material or equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).''.

(d) IMPORTATION OF FIREARMS.—Section 5844 of the Internal Revenue Code of 1986 (26 U.S.C. 5844) is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by inserting ''or'' after the semicolon; and

(3) by inserting after paragraph (3) the following:

''(4) a machinegun or short-barreled shotgun being imported or brought in for transfer to a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law;''.

(e) SEMIAUTOMATIC ASSAULT WEAPONS; LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (v)(4)(B)—

(A) by inserting ''or certificate holder'' after ''licensee'' each place that term appears;

(B) by inserting ''or certificate holder-authorized'' after ''licensee-authorized''; and

(C) by inserting ''or equipment'' after ''materials''; and

(2) in subsection (w)(3)(B)—

(A) by inserting ''or certificate holder'' after ''licensee'' each place that term appears;

(B) by inserting ''or certificate holder-authorized'' after ''licensee-authorized''; and

(C) by inserting ''or equipment'' after ''materials''.

SEC. 436D. SENSITIVE RADIOACTIVE MATERIAL SECURITY.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by section 436A) is amended by adding at the end the following:

''SEC. 170D. SENSITIVE RADIOACTIVE MATERIAL SECURITY.

''(a) DEFINITIONS.—In this section:

''(1) SENSITIVE RADIOACTIVE MATERIAL.—

''(A) IN GENERAL.—The term 'sensitive radioactive material' means—

''(i) a material—

''(I) that is a source material, by-product material, or special nuclear material; or

''(II) that is any other radioactive material (regardless of whether the material is or has been licensed or otherwise regulated under this Act) produced or made radioactive before or after the date of enactment of this section; and

''(ii) that is in such a form or quantity or concentration that the Commission determines should be classified as 'sensitive radioactive material' that warrants improved security and protection against loss, theft, or sabotage.

''(B) EXCLUSION.—The term 'sensitive radioactive material' does not include nuclear fuel or spent nuclear fuel.

''(2) SECURITY THREAT.—The term 'security threat' means—

''(A) a threat of sabotage or theft of sensitive radioactive material;

''(B) a threat of use of sensitive radioactive material in a radiological dispersal device; and

''(C) any other threat of terrorist or other criminal activity involving sensitive radioactive material that could harm the health or safety of the public due primarily to radiological properties of the sensitive radioactive material, as determined by the Commission.

''(b) DUTIES.—

''(1) IN GENERAL.—The Commission, in consultation with Secretary of Homeland Security, Secretary of Energy, Director of Central Intelligence, Director of the Federal Bureau of Investigation, Director of the Customs Service, and Administrator of the Environmental Protection Agency, shall—

''(A) evaluate the security of sensitive radioactive material against security threats; and

''(B) recommend administrative and legislative actions to be taken to provide an acceptable level of security against security threats.

''(2) CONSIDERATIONS.—In carrying out paragraph (1), the Commission shall consider actions, as appropriate to—

''(A) determine the radioactive materials that should be classified as sensitive radioactive materials;

''(B) develop a classification system for sensitive radioactive materials that—

''(i) is based on the potential for use by terrorists of sensitive radioactive material and the extent of the threat to public health and safety posed by that potential; and

''(ii) takes into account—

''(I) radioactivity levels of sensitive radioactive material;

''(II) the dispersibility of sensitive radioactive material;

''(III) the chemical and material form of sensitive radioactive material;

''(IV) the need to maintain access by physicians and other medical professionals to sensitive radioactive material and pharmaceuticals containing sensitive radioactive material for use in connection with medical diagnosis or treatment; and

''(V) other appropriate factors;

''(C) develop a national system for recovery of sensitive radioactive material that is lost or stolen, taking into account the classification system established under subparagraph (B);

''(D) provide for the storage of sensitive radioactive material that is not currently in use in a safe and secure manner;

''(E) develop a national tracking system for sensitive radioactive material, taking into account the classification system established under subparagraph (B);

''(F) develop methods to ensure the return or proper disposal of sensitive radioactive material;

''(G) consider export controls on sensitive radioactive materials so that, to the extent feasible, exports from the United States of sensitive radioactive materials are made to foreign recipients that are willing and able to control the sensitive radioactive materials in a manner that is not inimical to the common defense and security of the United States; and

''(H) establish procedures to improve the security of sensitive radioactive material in use, transportation, and storage.

''(3) PROCEDURES TO IMPROVE SECURITY.—The procedures to improve the security of sensitive radioactive material under paragraph (2)(H) may include—

''(A) periodic audits or inspections by the Commission to ensure that sensitive radioactive material is properly secured and can be fully accounted for;

''(B) evaluation by the Commission of security measures taken by persons that possess sensitive radioactive material;

''(C) imposition of increased fines for violations of regulations relating to security and safety measures applicable to persons that possess sensitive radioactive material;

''(D) conduct of background checks on individuals with access to sensitive radioactive material;

''(E) measures to ensure the physical security of facilities in which sensitive radioactive material is stored; and

''(F) screening of shipments of sensitive radioactive material to facilities that are particularly at risk for sabotage to ensure that the shipments do not contain explosives.

''(c) REPORT.—Not later than 1 year after the date of enactment of this section, and not less frequently than once every 3 years thereafter, the Commission shall submit to the President and Congress a report in unclassified form (with a classified annex, if necessary) describing the administrative and legislative actions recommended under subsection (b)(1).

''(d) ADMINISTRATIVE ACTION.—Not later than 60 days after the date of submission of the report under subsection (c), the Commission shall take such actions as are appropriate to—

''(1) revise the system for licensing sensitive radioactive materials; and

''(2) delegate the authority of the Commission to implement regulatory programs and requirements to States that enter into agreements with the Commission to perform inspections and other functions on a cooperative basis as the Commission considers appropriate.''.

SEC. 436E. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended in the first sentence by inserting ''or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act'' before the period at the end.

SEC. 436F. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in the first sentence, by striking ''or who intentionally and willfully attempts'' and inserting ''or who attempts or conspires'';

(2) in paragraph (2), by striking ''storage facility'' and inserting ''storage, treatment, or disposal facility'';

(3) in paragraph (3)—

(A) by striking ''such a utilization facility'' and inserting ''a utilization facility licensed under this Act''; and

(B) by striking ''or'' at the end;

(4) in paragraph (4)—

(A) by striking ''facility licensed'' and inserting ''uranium conversion or nuclear fuel fabrication facility licensed or certified''; and

(B) by striking the period at the end and inserting a semicolon; and

(5) by inserting after paragraph (4) the following:

''(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

''(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

''(7) any radioactive material or other property subject to regulation by the Nuclear Regulatory Commission that, before the date of the offense, the Nuclear Regulatory Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security;''.

SEC. 436G. EVALUATION OF ADEQUACY OF ENFORCEMENT PROVISIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General and the Nuclear Regulatory Commission shall submit to Congress a report that assesses the adequacy of the criminal enforcement provisions in chapter 18 of the Atomic Energy Act of 1954 (42 U.S.C. 221 et seq.).

SEC. 436H. PROTECTION OF WHISTLEBLOWERS.

Section 211(a)(2) of the Energy Reorganization Act (42 U.S.C. 5851) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(E) a contractor or subcontractor of the Commission.''.

SEC. 436I. TECHNICAL AND CONFORMING AMENDMENT.

The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end of the items relating to chapter 14 the following:

''Sec.
''170B. Uranium supply.
''170C. Protection of designated nuclear facilities.102. Section 102 head.
''170D. Sensitive radioactive material security.''.

SEC. 436J. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out the amendments made by this title.

(b) AGGREGATE AMOUNT OF CHARGES.—Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)(2)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; and'' and

(3) by adding at the end the following:

''(iii) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections.''.

SA 1429. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, line 24, insert ''(including roofing)'' after ''system''.

On page 91, line 11, strike ''and''.

On page 91, line 15, strike the period and insert '', and''.

On page 91, between lines 15 and 16, insert the following:

''(III) which has a roof which meets the requirements for reflective roofs under the Energy Star program of the Environmental Protection Agency.

On page 104, line 19, strike ''and''.

On page 104, between lines 19 and 20, insert the following:

''(5) 30 percent of the qualified energy efficient reflective metal roof expenditures made by the taxpayer during such year, and

On page 104, line 20, strike ''(5)'' and insert ''(6)''.

On page 106, line 5, strike ''or a wind energy property'' and insert ''a wind energy property, or a reflective metal roof''.

On page 106, line 9, strike ''(d)(6)'' and insert ''(d)(7)''.

On page 108, between lines 22 and 23, insert the following:

''(6) QUALIFIED ENERGY EFFICIENT REFLECTIVE METAL ROOF EXPENDITURE.—The term 'qualified energy efficient reflective metal roof expenditure' means an expenditure for pigmented coated metal roofs which meet or exceed solar reflectivity standards established for reflective roof products under the Energy Star program of the Environmental Protection Agency and which are installed on a dwelling unit located in the United States and used as a residence by the taxpayer.

On page 108, line 23, strike ''(6)'' and insert ''(7)''.

On page 110, line 8, strike ''(7)'' and insert ''(8)''.

On page 110, line 11, strike ''or (6)'' and insert ''(6), or (7)''.

On page 110, line 15, strike ''(8)'' and insert ''(9)''.

On page 139, line 8, insert '', or, in the case of roofs, in accordance with the requirements for reflective roof products under the Energy Star program of the Environmental Protection Agency'' before the comma.

On page 145, line 19, insert ''(including roofing)'' after ''system''.

SA 1430. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of Division B, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM WIND ALLOWED AGAINST REGULAR AND MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) SPECIAL RULES FOR CREDIT FOR ELECTRICITY PRODUCED FROM WIND.—

''(A) IN GENERAL.—In the case of the wind electricity credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) in applying paragraph (1) to such credit—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the wind electricity credit).

''(B) WIND ELECTRICITY CREDIT.—For purposes of this subsection, the term 'wind electricity credit' means the credit determined under sections 45 to the extent that such credit is attributable to electricity produced—

''(i) at a facility using wind to produce electricity which is originally placed in service after the date of the enactment of this paragraph, and

''(ii) during the 4-year period beginning on the date that such facility was originally placed in service.''.

(b) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, and subclause (II) of section 38(c)(5)(A)(ii), as added by this Act, are each amended by inserting ''or the wind electricity credit'' after ''Alaska natural gas credit''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 1431. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him

to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In division B, beginning on page 66, line 4, strike all through page 67, line 9.

Beginning on page 67, line 16, strike all through page 69, line 25, and insert the following:

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(B) CERTIFICATION FOR AGRI-BIODIESEL.—Subparagraph (A) shall apply only if the taxpayer described in paragraph (1)(A) or (2)(A) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

On page 70, line 11, insert ''derived from plant or animal matter'' after ''acids''.

On page 71, strike lines 1 through 3.

On page 71, line 4, strike ''(4)'' and insert ''(3)''.

On page 71, lines 17 through 19, strike ''biodiesel mixture rate applicable under subsection (b)(1)(B)'' and insert ''rate applicable under subsection (b)(1)(A)''.

On page 72, line 3, strike ''(5)'' and insert ''(4)''.

On page 73, between lines 3 and 4, insert the following:

(2)(A) Section 87, as amended by this Act, is amended—

(i) by striking ''and'' at the end of paragraph (1),

(ii) by striking the period at the end of paragraph (2) and inserting '', and'',

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

''(3) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).'', and

(iv) by striking ''fuel credit'' in the heading and inserting ''and biodiesel fuels credits''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

On page 73, line 4, strike ''(2)'' and insert ''(3)''.

On page 73, line 11, strike ''(3)'' and insert ''(4)''.

On page 76, strike lines 1 through 11 and insert the following:

''(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any qualified biodiesel mixture.

''(2) APPLICABLE AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

''(B) AMOUNT FOR AGRI-BIODIESEL.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

''(ii) CERTIFICATION FOR AGRI-BIODIESEL.—Clause (i) shall apply only if the taxpayer described in paragraph (1) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

On page 76, line 21, strike ''agri-biodiesel'' and insert ''biodiesel''.

On page 77, lines 1 and 2, strike ''agri-biodiesel'' and insert ''biodiesel''.

On page 77, line 8, strike ''agri-biodiesel'' and insert ''biodiesel''.

On page 77, between lines 14 and 15, insert the following:

(b) REGISTRATION REQUIREMENT.—Section 4101(a) (relating to registration) is amended by inserting ''and every person producing biodiesel (as defined in section 40B(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))'' after ''4091''.

On page 77, line 15, strike ''(b)'' and insert ''(c)''.

Beginning on page 79, line 16, strike all through page 80, line 17, and insert the following:

''(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

''(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

''(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40B(d)(1)) or agri-biodiesel (as defined in section 40B(d)(2)) which is not in a mixture with a taxable fuel (as defined in section 4083(a)(1))—

''(A) is used by any person as a fuel in a trade or business, or

''(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40B(b)(2)) with respect to such fuel.

''(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

''(4) TERMINATION.—This subsection shall not apply with respect to—

''(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

''(B) any qualified biodiesel mixture (within the meaning of section 6426(c)(1)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2005.''.

On page 82, line 4, strike ''(e)'' and insert ''(e)(1)''.

On page 84, line 8, strike ''(c)'' and insert ''(d)''.

On page 84, line 11, strike ''(d)'' and insert ''(e)''.

Beginning on page 86, line 25, strike ''with the'' and all that follows through page 87, line 2, and insert the following: ''with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment,''.

On page 88, between lines 11 and 12, insert the following:

''(3) PROVIDER LIMITATION.—Any eligible contractor who directly or indirectly provides the guarantee of energy savings under a guarantee-based method of certification described in subsection (d)(1)(D) shall not be eligible to receive the credit allowed by this section.

On page 89, line 2, insert ''or system'' after ''cooling equipment''.

On page 90, line 10, strike ''or'' and insert a comma.

On page 90, line 11, insert ''or a guarantee-based method,'' after ''method,''.

On page 91, strike lines 12 through 15 and insert the following:

''(II) constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment.

On page 91, line 22, strike ''Such'' and all that follows through page 92, line 2.

On page 92, between lines 2 and 3, insert the following:

''(D) GUARANTEE-BASED METHOD.—

''(i) IN GENERAL.—A guarantee-based method is a method which guarantees in writing to the homeowner energy savings of either 30 percent or 50 percent over the 2000 International Energy Conservation Code for heating and cooling costs. The guarantee shall be provided for a minimum of 2 years and shall fully reimburse the homeowner any heating and cooling costs in excess of the guaranteed amount.

''(ii) COMPUTER SOFTWARE.—Computer software shall be selected by the provider to support the guarantee-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

On page 92, line 9, insert ''or a guarantee-based method'' after ''method''.

On page 94, line 13, insert ''and guarantee-based'' after ''based''.

On page 105, strike lines 6 through 19 and insert the following:

''(C) for property described in subsection (d)(6)—

''(i) $150 for each electric heat pump water heater,

''(ii) $125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

''(iii) $150 for each advanced natural gas, oil, or propane water heater,

''(iv) $50 for each natural gas, oil, or propane water heater,

''(v) $50 for an advanced main air circulating fan,

''(vi) $150 for each advanced combination space and water heating system,

''(vii) $50 for each combination space and water heating system, and

''(viii) $250 for each geothermal heat pump.

On page 106, line 18, insert ''for property described in subsection (d)(6)(B)(viii)'' after ''(EER)''.

On page 109, strike lines 12 through 17.

On page 109, line 18, strike ''(iii)'' and insert ''(ii)''.

On page 109, lines 18 and 19, strike ''or propane furnace'' and insert ''propane furnace, or hot water boiler''.

On page 109, strike lines 22 through 25.

On page 110, strike lines 1 through 7 and insert the following:

''(iii) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

''(iv) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

''(v) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

''(vi) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

''(vii) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, and

''(viii) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

On page 139, strike lines 7 and 8 and insert the following: ''meet or exceed the latest prescriptive criteria for such component in the International Energy Conservation Code approved by the Department of Energy before the installation of such component,''.

On page 141, line 10, strike ''Such'' and all that follows through line 15.

On page 141, line 19, strike ''by''.

On page 146, strike lines 17 through 19 and insert the following:

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended—

(A) by striking ''The credit'' and inserting the following:

''(1) DOLLAR AMOUNT.—The credit'', and

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

On page 146, line 20, strike ''(3)'' and insert ''(2)''.

On page 147, line 9, strike ''(b)(3)'' and insert ''(b)(2)''.

On page 153, strike lines 13 and 14 and insert the following:

''(B) uses an input of at least 75 percent coal to produce at least 50 percent of its thermal output as electricity,

On page 157, line 2, strike ''section 45(d)'' and insert ''section 45(e)''.

On page 177, line 21, strike ''(2), and (6)'' and insert '', (2), and (6)''.

On page 180, after line 10, strike ''40.6'' both places it appears and insert ''40.2''.

On page 180, after line 10, strike ''40'' both places it appears and insert ''39''.

On page 181, between lines 3 and 4, strike ''43.6'' both places it appears and insert ''43.9''.

On page 181, between lines 6 and 7, strike ''44.2'' both places it appears and insert ''46.3''.

On page 181, between lines 6 and 7, strike ''43.9'' and insert ''44.2''.

On page 182, line 11, strike ''section 45(d)'' and insert ''section 45(e)''.

On page 198, line 25, insert ''with respect to any facility'' after ''taxable year''.

On page 199, line 2, insert ''with respect to such facility'' after ''taxable year''.

On page 199, line 9, strike ''a small business refiner'' and insert ''any facility''.

On page 200, line 16, insert ''for all facilities of the taxpayer'' after ''of which ''.

On page 200, line 18, strike ''205,000'' and insert ''410,000''.

On page 219, line 24, insert '', as amended by this Act,'' after ''rules)''.

On page 220, line 1, strike ''(9)'' and insert ''(10)''.

On page 222, strike lines 1 through 4 and insert the following:

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) EXISTING FACILITIES.—The amendments made by subsection (c) shall apply to fuel sold after December 31, 2002, in taxable years ending after such date.

On page 227, line 1, strike ''the taxpayer'' and insert ''such person or entity''.

On page 227, beginning on line 10, strike ''operating'' and all that follows through ''production.'' on line 12, and insert the following: ''such persons or entities. Production otherwise attributable to a United States tax-exempt person or entity by reason of a royalty interest shall be attributable to such person or entity with respect to whom royalty-in-value production remains or to whom royalty-in-kind production is sold.''.

On page 228, line 7, strike ''15 years'' and insert ''25 years''.

On page 231, strike lines 4 and 5 and insert the following:

''(B) is—

''(i) placed in service after December 31, 2012, or

''(ii) treated as placed in service on January 1, 2013, if the taxpayer who places such system in service before January 1, 2013, elects such treatment.

On page 231, strike lines 14 through 17 and insert the following:

''(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

On page 237, between lines 18 and 19, insert the following:

SEC. 514. EXTENSION OF ENHANCED OIL RECOVERY CREDIT TO CERTAIN ALASKA FACILITIES.

(a) IN GENERAL.—Section 43(c)(1) (defining qualified enhanced oil recovery costs) is amended by adding at the end the following new subparagraph:

''(D) Any amount which is paid or incurred during the taxable year to construct a gas treatment plant which—

''(i) is located in the area of the United States (within the meaning of section 638(1)) lying north of 64 degrees North latitude,

''(ii) prepares Alaska natural gas (as defined in section 45M(c)(1)) for transportation through a pipeline with a capacity of at least 2,000,000,000,000 Btu of natural gas per day, and

''(iii) produces carbon dioxide which is injected into hydrocarbon-bearing geological formations.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2003.

SA 1432. Mr. FRIST proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; (instructions on pending motion to commit) as follows:

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as ''The Energy Policy Act of 2003''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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

TITLE I—OIL AND GAS

Subtitle A—Production Incentives

Sec. 101. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
Sec. 102. Study on inventory of petroleum and natural gas storage.
Sec. 103. Program on oil and gas royalties in kind.
Sec. 104. Marginal property production incentives.
Sec. 105. Comprehensive inventory of OCS oil and natural gas resources.
Sec. 106. Royalty relief for deep water production.
Sec. 107. Alaska offshore royalty suspension.
Sec. 108. Orphaned, abandoned, or idled wells on Federal lands.
Sec. 109. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
Sec. 110. Alternate energy-related uses on the Outer Continental Shelf.
Sec. 111. Coastal impact assistance.
Sec. 112. National Energy Resource Database.
Sec. 113. Oil and gas lease acreage limitation.
Sec. 114. Assessment of dependence of State of Hawaii on oil.

Subtitle B—Access to Federal Lands

Sec. 121. Office of Federal Energy Permit Coordination.
Sec. 122. Pilot Project to improve Federal permit coordination.
Sec. 123. Federal onshore leasing programs for oil and gas.
Sec. 124. Estimates of oil and gas resources underlying onshore Federal lands.
Sec. 125. Split-Estate Federal oil and gas leasing and development practices.
Sec. 126. Coordination of Federal agencies to establish priority energy transmission rights-of-way.

Subtitle C—Alaska Natural Gas Pipeline

Sec. 131. Short title.
Sec. 132. Definitions.
Sec. 133. Issuance of certificate of public convenience and necessity.
Sec. 134. Environmental reviews.
Sec. 135. Pipeline expansion.
Sec. 136. Federal coordinator.
Sec. 137. Judicial review.
Sec. 138. State jurisdiction over in-state delivery of natural gas.
Sec. 139. Study of alternative means of construction.
Sec. 140. Clarification of ANGTA status and authorities.

Sec. 141. Sense of Congress.
Sec. 142. Participation of small business concerns.
Sec. 143. Alaska pipeline construction training program.
Sec. 144. Loan guarantee.
Sec. 145. Sense of Congress on natural gas demand.

TITLE II—COAL

Subtitle A—Clean Coal Power Initiative

Sec. 201. Authorization of appropriations.
Sec. 202. Project criteria.
Sec. 203. Reports.
Sec. 204. Clean Coal Centers of Excellence.

Subtitle B—Federal Coal Leases

Sec. 211. Repeal of the 160-acre limitation for coal leases.
Sec. 212. Mining plans.
Sec. 213. Payment of advance royalties under coal leases.
Sec. 214. Elimination of deadline for submission of coal lease operation and reclamation plan.
Sec. 215. Application of amendments.

Subtitle C—Powder River Basin

Sec. 221. Resolution of Federal resource development conflicts in the Powder River Basin.

TITLE III—INDIAN ENERGY

Sec. 301. Short title.
Sec. 302. Office of Indian energy policy and programs.
Sec. 303. Indian energy.

''TITLE XXVI—INDIAN ENERGY

''Sec. 2601. Definitions.

''Sec. 2602. Indian tribal energy resource development.

''Sec. 2603. Indian tribal energy resource regulation.

''Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.

''Sec. 2605. Federal Power Marketing Administrations.

''Sec. 2606. Indian mineral development review.

''Sec. 2607. Wind and hydropower feasibility study.

Sec. 304. Four Corners transmission line project.
Sec. 305. Energy efficiency in federally assisted housing.
Sec. 306. Consultation with Indian tribes.

TITLE IV—NUCLEAR

Subtitle A—Price-Anderson Amendments

Sec. 401. Short title.
Sec. 402. Extension of indemnification authority.
Sec. 403. Maximum assessment.
Sec. 404. Department of energy liability limit.
Sec. 405. Incidents outside the United States.
Sec. 406. Reports.
Sec. 407. Inflation adjustment.
Sec. 408. Treatment of modular reactors.
Sec. 409. Applicability.
Sec. 410. Civil penalties.

Subtitle B—Deployment of Commercial Nuclear Plants

Sec. 421. Short title.
Sec. 422. Definitions.
Sec. 423. Responsibilities of the Secretary of Energy.
Sec. 424. Limitations.
Sec. 425. Regulations.

Subtitle C—Advanced Reactor Hydrogen Co-Generation Project

Sec. 431. Project establishment.
Sec. 432. Project definition.
Sec. 433. Project management.
Sec. 434. Project requirements.
Sec. 435. Authorization of appropriations.

Subtitle D—Miscellaneous Matters

Sec. 441. Uranium sales and transfers.
Sec. 442. Decommissioning Pilot Program.

TITLE V—RENEWABLE ENERGY

Subtitle A—General Provisions

Sec. 501. Assessment of renewable energy resources.
Sec. 502. Renewable energy production incentive.
Sec. 503. Renewable energy on Federal lands.
Sec. 504. Federal purchase requirement.
Sec. 505. Insular area renewable and energy efficient plans.

Subtitle B—Hydroelectric Relicensing

Sec. 511. Alternative conditions and fishways.

Subtitle C—Geothermal Energy

Sec. 521. Competitive lease sale requirements.
Sec. 522. Geothermal leasing and permitting on Federal lands.
Sec. 523. Leasing and permitting on federal lands withdrawn for military purposes.
Sec. 524. Reinstatement of leases terminated for failure to pay rent.
Sec. 525. Royalty reduction and relief.
Sec. 526. Royalty exemption for direct use of low temperature geothermal energy resources.

Subtitle D—Biomass Energy

Sec. 531. Definitions.
Sec. 532. Biomass Commercial Utilization Grant Program.
Sec. 533. Improved Biomass Utilization Grant Program.
Sec. 534. Report.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Federal Programs

Sec. 601. Energy management requirements.
Sec. 602. Energy use measurement and accountability.
Sec. 603. Federal building performance standards.
Sec. 604. Energy savings performance contracts.
Sec. 605. Procurement of energy efficient products.
Sec. 606. Congressional building efficiency.
Sec. 607. Increased Federal use of recovered mineral components in federally funded projects involving procurement of cement or concrete.
Sec. 608. Utility energy service contracts.
Sec. 609. Study of energy efficiency standards.

Subtitle B—State and Local Programs

Sec. 611. Low Income Community Energy efficiency Pilot Program.
Sec. 612. Energy efficient public buildings.
Sec. 613. Energy Efficient Appliance Rebate Programs.

Subtitle C—Consumer Products

Sec. 621. Energy conservation standards for additional products.
Sec. 622. Energy labeling.
Sec. 623. Energy Star Program.
Sec. 624. HVAC Maintenance Consumer Education Program.

Subtitle D—Public Housing

Sec. 631. Capacity building for energy-efficient, affordable housing.
Sec. 632. Increase of CDBG public services cap for energy conservation and efficiency activities.
Sec. 633. FHA mortgage insurance incentives for energy efficient housing.
Sec. 634. Public housing capital fund.
Sec. 635. Grants for energy-conserving improvements for assisted housing.
Sec. 636. North American Development Bank.
Sec. 637. Energy-efficient appliances.
Sec. 638. Energy efficiency standards.
Sec. 639. Energy strategy for HUD.

TITLE VII—TRANSPORTATION FUELS

Subtitle A—Alternative Fuel Programs

Sec. 701. Use of alternative fuels by dual-fueled vehicles.
Sec. 702. Fuel use credits.
Sec. 703. Neighborhood electric vehicles.
Sec. 704. Credits for medium and heavy duty dedicated vehicles.
Sec. 705. Alternative fuel infrastructure.
Sec. 706. Incremental cost allocation.
Sec. 707. Review of Alternative Fuel Programs.
Sec. 708. High occupancy vehicle exception.
Sec. 709. Alternate compliance and flexibility.

Subtitle B—Automobile Fuel Economy

Sec. 711. Automobile fuel economy standards.
Sec. 712. Dual-fueled automobiles.
Sec. 713. Federal fleet fuel economy.
Sec. 714. Railroad efficiency.
Sec. 715. Reduction of engine idling in heavy-use vehicles.

TITLE VIII—HYDROGEN

Subtitle A—Basic Research Programs

Sec. 801. Short Title.
Sec. 802. Matsunaga act amendment.
Sec. 803. Hydrogen transportation and fuel initiative.
Sec. 804. Interagency task force and coordination plan.
Sec. 805. Review by the national academies.

Subtitle B—Demonstration Programs

Sec. 811. Definitions.
Sec. 812. Hydrogen vehicle demonstration program.
Sec. 813. Stationary fuel cell demonstration program.
Sec. 814. Hydrogen demonstration programs in national parks.
Sec. 815. International demonstration program.
Sec. 816. Tribal stationary hybrid power demonstration.
Sec. 817. Distributed Generation Pilot Program.

Subtitle C—Federal Programs

Sec. 821. Public education and training.
Sec. 822. Hydrogen transition strategic planning.
Sec. 823. Minimum federal fleet requirement.
Sec. 824. Stationary fuel cell purchase requirement.
Sec. 825. Department of energy strategy.

TITLE IX—RESEARCH AND DEVELOPMENT

Sec. 901. Short title.
Sec. 902. Goals.
Sec. 903. Definitions.

Subtitle A—Energy Efficiency

Sec. 911. Energy efficiency.
Sec. 912. Next generation lighting initiative.
Sec. 913. National building performance initiative.
Sec. 914. Secondary electric vehicle battery use program.
Sec. 915. Energy efficiency science initiative.

Subtitle B—Distributed Energy and Electric Energy Systems

Sec. 921. Distributed energy and electric energy systems.
Sec. 922. Hybrid distributed power systems.
Sec. 923. High Power Density Industry Program.
Sec. 924. Micro-cogeneration energy technology.

Sec. 925. Distributed energy technology demonstration program.
Sec. 926. Office of electric transmission and distribution.
Sec. 927. Electric Transmission and Distribution Programs.

Subtitle C—Renewable Energy

Sec. 931. Renewable energy.
Sec. 932. Bioenergy Programs.
Sec. 933. Biodiesel Engine Testing Program.
Sec. 934. Concentrating Solar Power Research Program.
Sec. 935. Miscellaneous projects.

Subtitle D—Nuclear Energy

Sec. 941. Nuclear energy.
Sec. 942. Nuclear Energy Research Programs.
Sec. 943. Advanced fuel cycle initiative.
Sec. 944. University nuclear science and engineering support.
Sec. 945. Security of nuclear facilities.
Sec. 946. Alternatives to industrial radioactive sources.

Subtitle E—Fossil Energy

Sec. 951. Fossil energy.
Sec. 952. Oil and Gas Research Programs.
Sec. 953. Research and development for coal mining technologies.
Sec. 954. Coal and Related Technologies Program.
Sec. 955. Complex well technology testing facility.

Subtitle F—Science

Sec. 961. Science.
Sec. 962. United States participation in ITER.
Sec. 963. Spallation neutron source.
Sec. 964. Support for science and energy facilities and infrastructure.
Sec. 965. Catalysis Research Program.
Sec. 966. Nanoscale science and engineering research.
Sec. 967. Advanced scientific computing for energy missions.
Sec. 968. Genomes to Life Program.
Sec. 969. Fission and Fusion Energy Materials Research Program.
Sec. 970. Energy-Water Supply Technologies Program.

Subtitle G—Energy and Environment

Sec. 971. United States-Mexico energy technology cooperation.
Sec. 972. Coal technology loan.

Subtitle H—Management

Sec. 981. Availability of funds.
Sec. 982. Cost sharing.
Sec. 983. Merit review of proposals.
Sec. 984. External Technical Review of Departmental Programs.
Sec. 985. Improved coordination of technology transfer activities.
Sec. 986. Technology Infrastructure Program.
Sec. 987. Small business advocacy and assistance.
Sec. 988. Mobility of scientific and technical personnel.
Sec. 989. National Academy of Sciences Report.
Sec. 990. Outreach.
Sec. 991. Competitive award of management contracts.
Sec. 992. Reprogramming.
Sec. 993. Construction with other laws.
Sec. 994. Improved coordination and management of civilian science and technology programs.
Sec. 995. Educational Programs in science and mathematics.
Sec. 996. Other transactions authority.
Sec. 997. Report on Research and Development Program Evaluation Methodologies.

TITLE X—PERSONNEL AND TRAINING

Sec. 1001. Workforce trends and traineeship grants.
Sec. 1002. Research fellowships in energy research.
Sec. 1003. Training guidelines for electric energy industry personnel.
Sec. 1004. National center on energy management and building technologies.
Sec. 1005. Improved access to energy-related scientific and technical careers.
Sec. 1006. National power plant operations technology and education center.
Sec. 1007. Federal mine inspectors.

TITLE XI—ELECTRICITY

Sec. 1101. Definitions.

Subtitle A—Reliability

Sec. 1111. Electric reliability standards.

Subtitle B—Regional Markets

Sec. 1121. Implementation date for proposed rulemaking for standard market design.
Sec. 1122. Sense of the Congress on Regional Transmission Organizations.
Sec. 1123. Federal utility participation in regional transmission organizations.
Sec. 1124. Regional consideration of competitive wholesale markets.

Subtitle C—Improving Transmission Access and Protecting Service Obligations

Sec. 1131. Service obligation security and parity.
Sec. 1132. Open non-discriminatory access.
Sec. 1133. Transmission infrastructure investment.

Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978

Sec. 1141. Net metering.
Sec. 1142. Smart metering.
Sec. 1143. Adoption of additional standards.
Sec. 1144. Technical assistance.
Sec. 1145. Cogeneration and small power production purchase and sale requirements.
Sec. 1146. Recovery of costs.

Subtitle E—Provisions Regarding the Public Utility Holding Company Act of 1935

Sec. 1151. Definitions.
Sec. 1152. Repeal of the Public Utility Holding Company Act of 1935.
Sec. 1153. Federal access to books and records.
Sec. 1154. State access to books and records.
Sec. 1155. Exemption authority.
Sec. 1156. Affiliate transactions.
Sec. 1157. Applicability.
Sec. 1158. Effect on other regulations.
Sec. 1159. Enforcement.
Sec. 1160. Savings provisions.
Sec. 1161. Implementation.
Sec. 1162. Transfer of resources.
Sec. 1163. Effective date.
Sec. 1164. Conforming amendment to the Federal Power Act.

Subtitle F—Market Transparency, Anti-Manipulation and Enforcement

Sec. 1171. Market transparency rules.
Sec. 1172. Market manipulation.
Sec. 1173. Enforcement.
Sec. 1174. Refund effective date.

Subtitle G—Consumer Protections

Sec. 1181. Consumer privacy.
Sec. 1182. Unfair trade practices.
Sec. 1183. Definitions.

Subtitle H—Technical Amendments

Sec. 1191. Technical amendments.

TITLE I—OIL AND GAS

Subtitle A—Production Incentives

SEC. 101. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

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

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

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended.'';

(2) by striking section 186 (42 U.S.C. 6250(e)); and

(3) by striking part E (42 U.S.C. 6251); relating to the expiration of title I of the Act).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by striking section 256(h) (42 U.S.C. 6276(h)) and inserting—

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.'';

(2) by inserting before section 273 (42 U.S.C. 6283) the following:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS'';

(3) by striking section 273(e) (42 U.S.C. 6283(e)); relating to the expiration of summer fill and fuel budgeting programs); and

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

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by amending the items relating to part D of title I to read as follows:

''PART D—NORTHEAST HOME HEATING OIL RESERVE

''Sec. 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast Home Heating Oil Reserve Account.
''Sec. 185. Exemptions.'';

(2) by amending the items relating to part C of title II to read as follows:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

''Sec. 273. Summer fill and fuel budgeting programs.'';

and

(3) by striking the items relating to part D of title II.

(d) NORTHEAST HOME HEATING OIL.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250(b)(1)) is amended by striking all after ''increases'' through to ''mid-October through March'' and inserting ''by more than 60 percent over its 5–year rolling average for the months of mid-October through March (considered as a heating season average)''.

SEC. 102. 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 propane.

(b) STUDY.—The Secretary of Energy shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) CONTENTS.—The study shall address—

(1) historical normal ranges for petroleum and natural gas inventory levels;

(2) historical and projected storage capacity trends;

(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service or other indicators of shortage begin to appear;

(4) explanations for inventory levels dropping below normal ranges; and

(5) the ability of industry to meet U.S. demand for petroleum and natural gas without

shortages or price spikes, when inventory levels are below normal ranges.

(d) REPORT TO CONGRESS.—Not later than one year from enactment of this Act, the Secretary of Energy shall submit a report to Congress on the results of the study, including findings and any recommendations for preventing future supply shortages.

SEC. 103. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all royalties-in-kind accepted by the Secretary (referred to in this section as ''Secretary'') under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other mineral leasing law beginning on the date of the enactment of this Act through September 30, 2013.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States under any Federal oil or gas lease or permit under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) shall, on the demand of the Secretary, be paid in oil or gas. If the Secretary makes such a demand, the following provisions apply to such payment:

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in kind.

(4) The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) The Secretary may not use revenues from the sale of oil and gas royalties taken in kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(6) Notwithstanding the provisions of paragraph 5, the Secretary may use a portion of the revenues from the sale of oil royalties taken in kind, without fiscal year limitation, to pay transportation costs, salaries, and other administrative costs directly related to filling the Strategic Petroleum Reserve.

(c) 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 at 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 such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in kind only if the Secretary determines that receiving such royalties provides benefits to the United States greater than or equal to those likely to have been received had royalties been taken in value.

(e) REPORT TO CONGRESS.—

(1) No later than September 30, 2005, the Secretary shall provide a report to Congress 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 business operation plans and objectives.

(2) For each of the fiscal years 2004 through 2013 in which the United States takes oil or gas royalties in kind from production in any State or from the Outer Continental Shelf, excluding royalties taken in kind and sold to refineries under subsections (h), the Secretary shall provide a report to Congress describing—

(A) the methodology or methodologies used by the Secretary to determine compliance with subsection (d) , including performance standard for comparing amounts received by the United States derived from such royalties-in-kind to amount likely to have been received had royalties been taken in value;

(B) an explanation of the evaluation that led the Secretary to take royalties-in-kind from a lease or group of leases, including the expected revenue effect of taking royalties-in-kind;

(C) actual amounts received by the United States derived from taking royalties-in-kind and cost and savings incurred by the United States associated with taking royalties-in-kind, including but not limited to administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties-in-kind.

(f) DEDUCTION OF EXPENSES.—

(1) Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in kind from a lease, the Secretary of the Interior shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous receipts.

(2) If the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary shall consult—

(1) with a State before conducting a royalty-in-kind program under this section within the State, and may delegate management of any portion of the Federal royalty in-kind program to such State except as otherwise prohibited by Federal law; and

(2) annually with any State from which Federal oil or gas royalty is being taken in kind to ensure to the maximum extent practicable that the royalty-in-kind program provides revenues to the State greater than or equal to those likely to have been received had royalties been taken in value.

(h) PROVISIONS FOR SMALL REFINERIES.—

(1) If the Secretary determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) In disposing of oil under this subsection, the Secretary may prorate such oil among such refineries in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) Any royalty oil or gas taken by the Secretary in kind from onshore oil and gas leases may be sold at not less than market price to any department or agency of the United States.

(2) Any royalty oil or gas taken in kind from Federal oil and gas leases on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) PREFERENCE FOR FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—In disposing of royalty oil or gas taken in kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

SEC. 104. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) MARGINAL PROPERTY DEFINED.—Until such time as the Secretary of the Interior issues rules under subsection (e) that prescribe a different definition, for purposes of this section, the term ''marginal property'' means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 million British thermal units of gas per well per day calculated based on the average over the three most recent production months, including only those wells that produce more than half the days in the three most recent production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary of the Interior promulgates rules under subsection (e) that prescribe different thresholds or standards, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) when the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) when the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units for 90 consecutive trading days.

(c) REDUCED ROYALTY RATE.—

(1) 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) The reduced royalty rate under this subsection shall be effective on the first day of the production month following the date on which the applicable price standard prescribed in subsection (b) is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (d)(1)(A) shall terminate—

(1) on oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (a); and

(2) on gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (a).

(e) RULES PRESCRIBING DIFFERENT RELIEF.—

(1) The Secretary of the Interior, after consultation with the Secretary of Energy, may by rule 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) The Secretary of the Interior, after consultation with the Secretary of Energy, and within 1 year after the date of enactment of this Act, shall, by rule,—

(A) prescribe standards and requirements for, and the extent of 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) In promulgating rules under this subsection, the Secretary of the Interior may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and their effects on production economics;

(E) other royalty relief programs; and

(F) other relevant matters.

(f) SAVINGS PROVISION.—Nothing in this section shall prevent a lessee from receiving royalty relief or a royalty reduction pursuant to any other law or regulation that provides more relief than the amounts provided by this section.

SEC. 105. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.

(a) IN GENERAL.—The Secretary of the Interior shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf (''OCS''). The inventory and analysis shall—

(1) use available data on oil and gas resources in areas offshore of Mexico and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3–D seismic technology to obtain accurate resource estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas such as the deepwater and subsalt areas in the Gulf of Mexico;

(4) estimate the effect that understated oil and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the federal government and coastal states, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) REPORTS.—The Secretary of Interior shall submit a report to the Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within six months of the date of enactment of the section. The report shall be publically available and updated at least every five years.

SEC. 106. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) IN GENERAL.—For all tracts located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring within 5 years after the date of the enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than—

(1) 5 million barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9 million barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters; and

(3) 12 million barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

SEC. 107. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337), is amended with the following: add ''and in the Planning Areas offshore Alaska'' after ''West longitude'' and before ''the Secretary''.

SEC. 108. ORPHANED, ABANDONED OR IDLED WELLS ON FEDERAL LANDS.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall establish a program within 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on lands administered by the land management agencies within the Department of the Interior and Agriculture. The program shall—

(1) include a means of ranking orphaned, abandoned, or idled well sites for priority in remediation, reclamation and closure, based on public health and safety, potential environmental harm, 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.

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

(c) PLAN.—Within 1 year after the date of enactment of the section, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall prepare a plan for carrying out the program established under subsection (a) and transmit copies of the plan to the Congress.

(d) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LANDS.—

(1) The Secretary of Energy shall establish a program to provide technical assistance to the various oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private lands.

(2) The Secretary shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned abandoned oil or gas wells on State and private lands.

(3) The program shall include—

(A) mechanisms to facilitate identification, if possible, of the persons or other entities currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities; and

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

(e) DEFINITION.—For purposes of this section, a well is idled if it has been non-operational for 7 years and there is no anticipated beneficial use of the well.

(f) AUTHORIZATION.—To carry out this section there is authorized to be appropriated to the Secretary of the Interior $25,000,000 for each of the fiscal years 2004 through 2008. Of the amounts authorized, $5,000,000 is authorized for activities under subsection (d).

SEC. 109. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS.—Not later than 90 days after enactment, the Secretary of the Interior shall promulgate final regulations providing royalty incentives for natural gas produced from deep wells, as defined by the Secretary, on oil and gas leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and issued prior to January 1, 2001, in shallow waters of the Gulf of Mexico, wholly west of 87 degrees, 30 minutes West longitude that are less than 200 meters deep.

(b) ROYALTY INCENTIVE REGULATIONS FOR ULTRA-DEEP GAS WELLS.—

(1) No later than 90 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 issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary of the Interior shall promulgate new regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from 'ultra deep wells' on leases issued prior to January 1, 2001, in shallow waters less than 200 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes West longitude. For purposes of this subsection, the term 'ultra deep wells' means wells drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(2) The Secretary shall not grant the royalty incentives outlined in this subsection if the average annual NYMEX natural gas price exceeds for one full calendar year the threshold price of $5 per million Btu, adjusted from the year 2000 for inflation.

(3) This subsection shall have no force or effect after the end of the 5-year period beginning on the date of the enactment of this Act.

SEC. 110. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following new subsection:

''(p) EASEMENTS OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

''(1) The Secretary may grant an 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. 1501 et seq.), or the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law when such activities—

''(A) support exploration, development, or production of oil or natural gas, except that such easements or rights-of-way shall not be granted in areas where oil and gas preleasing, leasing and related activities are prohibited by a Congressional moratorium or a withdrawal pursuant to section 12 of this Act;

''(B) support transportation of oil or natural gas;

''(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

''(D) use facilities currently or previously used for activities authorized under this Act.

''(2) The Secretary shall promulgate regulations to ensure that activities authorized under this subsection are conducted in a manner that provides for safety, protection of the environment, conservation of the natural resources of the outer Continental Shelf, appropriate coordination with other Federal agencies, and a fair return to the Federal government for any easement or right-of-way granted under this subsection. Such regulations shall establish procedures for—

(A) public notice and comment on proposals to be permitted pursuant to this subsection;

(B) consultation and review by State and local governments that may be impacted by activities to be permitted pursuant to this subsection;

(C) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455); and

(D) consultation with the Secretary of Defense and other appropriate agencies prior to the issuance of an easement or right-of-way under this subsection concerning issues related to national security and navigational obstruction.

(3) The Secretary shall require the holder of an easement or right-of-way granted under this subsection to furnish a surety bond or other form of security, as prescribed by the Secretary, and to comply with such other requirements as the Secretary may deem necessary to protect the interests of the United States.

''(4) This subsection shall not apply to any area within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

''(5) Nothing in this subsection shall be construed to amend or repeal, expressly by implication, the applicability of any other law, including but not limited to, the Coastal Zone Management Act (16 U.S.C. 1455 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).''.

(b) CONFORMING AMENDMENT.—The text of the heading for section 8 of the Outer Continental Shelf Lands Act is amended to read as follows: ''Leases, Easements, and Rights-of-Way on the Outer Continental Shelf.''.

SEC. 111. COASTAL IMPACT ASSISTANCE.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end:

''SEC. 32. COASTAL IMPACT ASSISTANCE FAIRNESS PROGRAM.

''(a) DEFINITIONS.—When used in this section:

''(1) The term 'coastal political subdivision' means a county, parish, or any equivalent subdivision of a Producing Coastal State in all or part of which subdivision lies within the coastal zone (as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1))) and within a distance of 200 miles from the geographic center of any leased tract.

''(2) The term 'coastal population' means the population of all political subdivisions, as determined by the most recent official data of the Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coastal Zone Management Act (16 U.S.C. 1451 et seq.).

''(3) The term 'Coastal State' has the same meaning as provided by subsection 304(4) of the Coastal Zone Management Act (16 U.S.C. 1453(4)).

''(4) The term 'coastline' has the same meaning as the term 'coast line' as defined in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

''(5) The term 'distance' means the minimum great circle distance, measured in statute miles.

''(6) The term 'leased tract' means a tract maintained under section 6 or leased under section 8 for the purpose of drilling for, developing, and producing oil and natural gas resources.

''(7) The term 'Producing Coastal State' means a Coastal State with a coastal seaward boundary within 200 miles from the geographic center of a leased tract other than a leased tract within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2002 unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

''(8) The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of this Act, or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any Producing Coastal State, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related late payment interest. Such term shall only apply to leases issued after January 1, 2003 and revenues from existing leases that occurs after January 1, 2003. Such term does not include any revenues from a leased tract or portion of a leased tract that is included within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

''(9) The term 'Secretary' means the Secretary of Interior.''

''(b) AUTHORIZATION.—For fiscal years 2004 through 2009, an amount equal to not more than 12.5 percent of qualified Outer Continental Shelf revenues is authorized to be appropriated for the purposes of this section.

''(c) IMPACT ASSISTANCE PAYMENTS TO STATES AND POLITICAL SUBDIVISIONS.—The Secretary shall make payments from the amounts available under this section to Producing Coastal States with an approved Coastal Impact Assistance Plan, and to coastal political subdivisions as follows:

''(1) Of the amounts appropriated, the allocation for each Producing Coastal State shall be calculated based on the ratio of qualified Outer Continental Shelf revenues generated off the coastline of the Producing Coastal State to the qualified Outer Continental Shelf revenues generated off the coastlines of all Producing Coastal States for each fiscal year. Where there is more than one Producing Coastal State within 200 miles of a leased tract, the amount of each Producing Coastal State's allocation for such leased tract shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary.

''(2) Thirty-five percent of each Producing Coastal State's allocable share as determined under paragraph (1) shall be paid directly to the coastal political subdivisions by the Secretary based on the following formula:

''(A) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastal population to the coastal population of all coastal political subdivisions in the Producing Coastal State.

''(B) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastline miles to the coastline miles of a coastal political subdivision in the Producing Coastal State except that for those coastal political subdivisions in the State of Louisiana without a coastline, the coastline for purposes of this element of the formula shall be the average length of the coastline of the remaining coastal subdivisions in the state.

''(C) Fifty percent shall be allocated based on the relative distance of such coastal political subdivision from any leased tract used to calculate the Producing Coastal State's allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary, except that in the State of Alaska, the funds for this element of the formula shall be divided equally among the two closest coastal political subdivisions. For purposes of the calculations under this subparagraph, a leased tract or portion of a leased tract shall be excluded if the leased tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

''(3) Any amount allocated to a Producing Coastal State or coastal political subdivision but not disbursed because of a failure to have an approved Coastal Impact Assistance Plan under this section shall be allocated equally by the Secretary among all other Producing Coastal States in a manner consistent with this subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section. The Secretary may waive the provisions of this paragraph and hold a Producing Coastal State's allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Coastal Impact Assistance Plan.

''(4) For purposes of this subsection, calculations of payments for fiscal years 2004

through 2006 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2003, and calculations of payments for fiscal years 2007 through 2009 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2006.

''(d) COASTAL IMPACT ASSISTANCE PLAN.—

''(1) The Governor of each Producing Coastal State shall prepare, and submit to the Secretary, a Coastal Impact Assistance Plan. The Governor shall solicit local input and shall provide for public participation in the development of the plan. The plan shall be submitted to the Secretary by July 1, 2004. Amounts received by Producing Coastal States and coastal political subdivisions may be used only for the purposes specified in the Producing Coastal State's Coastal Impact Assistance Plan.

''(2) The Secretary shall approve a plan under paragraph (1) prior to disbursement of amounts under this section. The Secretary shall approve the plan if the Secretary determines that the plan is consistent with the uses set forth in subsection (f) of this section and if the plan contains—

''(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;

''(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used;

''(C) a contact for each political subdivision and description of how coastal political subdivisions will use amounts provided under this section, including a certification by the Governor that such uses are consistent with the requirements of this section;

''(D) certification by the Governor that ample opportunity has been accorded for public participation in the development and revision of the plan; and

''(E) measures for taking into account other relevant Federal resources and programs.

''(3) The Secretary shall approve or disapprove each plan or amendment within 90 days of its submission.

''(4) Any amendment to the plan shall be prepared in accordance with the requirements of this subsection and shall be submitted to the Secretary for approval or disapproval.

''(e) AUTHORIZED USES.—Producing Coastal States and coastal political subdivisions shall use amounts provided under this section, including any such amounts deposited in a State or coastal political subdivision administered trust fund dedicated to uses consistent with this subsection, in compliance with Federal and State law and only for one or more of the following purposes—

''(1) projects and activities for the conservation, protection or restoration of coastal areas including wetlands;

''(2) mitigating damage to fish, wildlife or natural resources;

''(3) planning assistance and administrative costs of complying with the provisions of this section;

''(4) implementation of federally approved marine, coastal, or comprehensive conservation management plans; and

''(5) mitigating impacts of Outer Continental Shelf activities through funding onshore infrastructure and public service needs.

(f) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a Producing Coastal State or coastal political subdivision is not consistent with the uses authorized in subsection (e) of this section, the Secretary shall not disburse any further amounts under this section to that Producing Coastal State or coastal political subdivision until the amounts used for the inconsistent expenditure have been repaid or obligated for authorized uses.

SEC. 112. NATIONAL ENERGY RESOURCE DATABASE.

(a) SHORT TITLE.—This section may be cited as the ''National Energy Data Preservation Program Act of 2003''.

(b) PROGRAM.—The Secretary of the Interior (in this section, referred to as ''Secretary'') shall carry out a National Energy Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data and samples related to energy resources including oil, gas, coal, and geothermal resources;

(2) to provide a national catalog of such archival material; and

(3) to provide technical assistance related to the archival material.

(c) ENERGY DATA ARCHIVE SYSTEM.—

(1) The Secretary shall establish, as a component of the Program, an energy data archive system, which shall provide for the storage, preservation, and archiving of subsurface, and in limited cases surface, geological, geophysical and engineering data and samples. The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall develop guidelines relating to the energy data archive system, including the types of data and samples to be preserved.

(2) The system shall be comprised of State agencies and agencies within the Department of the Interior that maintain geological and geophysical data and samples regarding energy resources and that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) The Secretary may not designate a State agency as a component of the energy data archive system unless it is the agency that acts as the geological survey in the State.

(4) The energy data archive system shall provide for the archiving of relevant subsurface data and samples obtained during energy exploration and production operations on Federal lands—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data was collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(5)(A) Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under paragraph (2) for providing facilities to archive energy material.

(B) The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall establish procedures for providing assistance under this paragraph. The procedures shall be designed to ensure that such assistance primarily supports the expansion of data and material archives and the collection and preservation of new data and samples.

(d) NATIONAL CATALOG.—

(1) As soon as practicable after the date of the enactment of this section, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) energy data and samples available in the energy data archive system established under subsection (c);

(B) the repository for particular material in such system; and (C) the means of accessing the material.

(2) The Secretary shall make the national catalog accessible to the public on the site of the Survey on the World Wide Web, consistent with all applicable requirements related to confidentiality and proprietary data.

(3) The Secretary may carry out the requirements of this subsection by contract or agreement with appropriate persons.

(e) TECHNICAL ASSISTANCE.—

(1) Subject to the availability of appropriations, as a component of the Program, the Secretary shall provide financial assistance to any State agency designated under subsection (c)(2) to provide technical assistance to enhance understanding, interpretation, and use of materials archived in the energy data archive system established under subsection (c).

(2) The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall develop a process, which shall involve the participation of representatives of relevant Federal and State agencies, for the approval of financial assistance to State agencies under this subsection.

(f) COSTS.—

(1) The Federal share of the cost of an activity carried out with assistance under subsections (c) or (e) shall be no more than 50 percent of the total cost of that activity.

(2) The Secretary—

(A) may accept private contributions of property and services for technical assistance and archive activities conducted under this section; and (B) may apply the value of such contributions to the non-Federal share of the costs of such technical assistance and archive activities.

(g) REPORTS.—

(1) Within year after the date of the enactment of this Act, the Secretary shall submit an initial report to the Congress setting forth a plan for the implementation of the Program.

(2) Not later than 90 days after the end of the first fiscal year beginning after the submission of the report under paragraph (1) and after the end of each fiscal year thereafter, the Secretary shall submit a report to the Congress describing the status of the Program and evaluating progress achieved during the preceding fiscal year in developing and carrying out the Program.

(3) The Secretary shall consult with the Association of American State Geologists and interested members of the public in preparing the reports required by this subsection.

(h) DEFINITIONS.—As used in this section, the term:

(1) ''Association of American State Geologists'' means the organization of the chief executives of the State geological surveys.

(2) ''Secretary'' means the Secretary of the Interior acting through the Director of the United States Geological Survey.

(3) ''Program'' means the National Energy Data Preservation Program carried out under this section.

(4) ''Survey'' means the United States Geological Survey.

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2003 through 2007 for carrying out this section.

SEC. 113. OIL AND GAS LEASE ACREAGE LIMITATION.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after ''acreage held in special tar sands area'' the following: ''as well as acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement,

or for which royalty, including compensatory royalty or royalty-in-kind, was paid in the preceding calendar year,''.

SEC. 114. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT. The Secretary of Energy shall assess the economic implication 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 configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affection 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 opportunities, and the effect of such displacement on the economic relationship described in paragraph (2) including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of such displacement on the relationship described in (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii

(b) CONTRACTING AUTHORITY.—The Secretary of Energy may carry out the assessment under subsection (a) directly or, in whole or in part, through one or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary of Energy shall prepare, in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate, and submit to Congress, as report detailing the findings, conclusions, and recommendations resulting from the assessment.

(d) APPROPRIATION.—The are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Access to Federal Lands

SEC. 121. OFFICE OF FEDERAL ENERGY PERMIT COORDINATION.

(a) ESTABLISHMENT.—The President shall establish the Office of Federal Energy Permit Coordination (in this section, referred to as ''Office'') within the Executive Office of the President in the same manner and mission as the White House Energy Projects Task Force established by Executive Order 13212.

(b) STAFFING.—The Office shall be staffed by functional experts from relevant federal agencies and departments on a nonreimbursable basis to carry out the mission of this office.

(c) REPORTING.—The Office shall provide an annual report to Congress, detailing the activities put in place to coordinate and expedite Federal decisions on energy projects. The report shall list accomplishments in improving the federal decision making process and shall include any additional recommendations or systemic changes needed to establish a more effective and efficient federal permitting process.

SEC. 122. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) CREATION OF PILOT PROJECT.—The Secretary of the Interior (in this section, referred to as ''Secretary'') shall establish a Federal Permit Streamlining Pilot Project. The Secretary shall enter into a Memorandum of Understanding with the Secretary of Agriculture, Administrator of the Environmental Protection Agency, and the Chief of the Corps of Engineers within 90 days after enactment of this Act. The Secretary may also request that the Governors of Wyoming, Montana, Colorado, and New Mexico be signatories to the Memorandum of Understanding.

(b) DESIGNATION OF QUALIFIED STAFF.—Once the Pilot Project has been established by the Secretary, all Federal signatory parties shall assign an employee on a nonreimbursable basis to each of the field offices identified in section (c), who has expertise in the regulatory issues pertaining to their office, including, as applicable, particular expertise in Endangered Species Act section 7 consultations and the preparation of Biological Opinions, Clean Water Act 404 permits, Clean Air Act regulatory matters, planning under the National Forest Management Act, and the preparation of analyses under the National Environmental Policy Act. Assigned staff shall report to the Bureau of Land Management (BLM) Field Managers in the offices to which they are assigned, and shall be responsible for all issues related to the jurisdiction of their home office or agency, and participate as part of the team of employees working on proposed energy projects, planning, and environmental analyses.

(c) FIELD OFFICES.—The following BLM Field Offices shall serve as the Federal Permit Streamlining Pilot Project offices:

(1) Rawlins, Wyoming;

(2) Buffalo, Wyoming;

(3) Miles City, Montana;

(4) Farmington, New Mexico;

(5) Carlsbad, New Mexico; and

(6) Glenwood Springs, Colorado.

(d) REPORTS.—The Secretary shall submit a report to the Congress 3 years following the date of enactment of this section, outlining the results of the Pilot Project to date and including a recommendation to the President as to whether the Pilot Project should be implemented nationwide.

(e) ADDITIONAL PERSONNEL.—The Secretary shall assign to each of the BLM Field Offices listed in subsection (c) such additional personnel as is necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by such offices, including inspection and enforcement related to energy development on federal lands, pursuant to the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(f) SAVINGS PROVISION.—Nothing in this section shall affect the operation of any federal or state law or any delegation of authority made by a Secretary or head of an Agency whose employees are participating in the program provided for by this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 123. FEDERAL ONSHORE LEASING PROGRAMS FOR OIL AND GAS.

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

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

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

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

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

(c) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2004 through 2007, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior—

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

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

SEC. 124. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LANDS.

Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended by striking ''(a) IN GENERAL'' and all thereafter and inserting

''(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretaries of Agriculture and Energy, shall conduct an inventory of all onshore Federal lands and take measures necessary to update and revise this inventory. The inventory shall identify for all federal lands

''(1) the United States Geological Survey estimates of the oil and gas resources underlying these lands;

''(2) the extent and nature of any restrictions or impediments to the exploration, production and transportation of such resources, including

''(A) existing land withdrawals and the underlying purpose for each withdrawal;

''(B) restrictions or impediments affecting timeliness of granting leases;

''(C) post-lease restrictions or impediments such as conditions of approval, applications for permits to drill, applicable environmental permits;

''(D) permits or restrictions associated with transporting the resources; and

''(E) identification of the authority for each restriction or impediment together with the impact on additional processing or review time and potential remedies; and

''(3) the estimates of oil and gas resources not available for exploration and production by virtue of the restrictions identified above.

''(b) REPORTS.—The Secretary shall provide a progress report to the Congress by October 1, 2006 and shall complete the inventory by October 1, 2010.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 125. 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. This review 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 owners and the Department;

(2) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act (30 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 production; 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 the Congress no later than 180 days after enactment of this section.

SEC. 126. COORDINATION OF FEDERAL AGENCIES TO ESTABLISH PRIORITY ENERGY TRANSMISSION RIGHTS-OF-WAY.

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

(1) The term ''utility corridor'' means any linear strip of land across Federal lands of approved width, but limited by technological, environmental, and topographical factors for use by a utility facility.

(2) The term ''Federal authorization'' means any authorization required under Federal law in order to site a utility facility, including but not limited to such permits, special use authorizations, certifications, opinions, or other approvals as may be required, issued by a Federal agency.

(3) The term ''Federal lands'' means all lands owned by the United States, except

(A) lands in the National Park System;

(B) lands held in trust for an Indian or Indian tribe; and

(C) lands on the Outer Continental Shelf.

(4) The term ''Secretary'' means the Secretary of Energy.

(5) The term ''utility facility'' means any privately, publicly, or cooperatively owned line, facility, or system (A) for the transportation of oil and natural gas, synthetic liquid or gaseous fuels, any refined product produced therefrom, or for transportation of products in support of production, or for storage and terminal facilities in connection therewith; or (B) for the generation, transmission and distribution of electric energy.

(b) UTILITY CORRIDORS.—

(1) No later than 24 months after the date of enactment of this section, the Secretary of the Interior, with respect to public lands, and the Secretary of Agriculture, with respect to National Forest System lands, in consultation with the Secretary, shall—

(A) designate utility corridors pursuant to section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) in the eleven contiguous Western States, as identified in section 103(o) of such Act (43 U.S.C. 1702(o)); and

(B) incorporate the utility corridors designated under paragraph (A) into the relevant departmental and agency land use and resource management plans or their equivalent.

(2) The Secretary shall coordinate with the affected Federal agencies to jointly identify potential utility corridors on Federal lands in the other States and jointly develop a schedule for the designation, environmental review and incorporation of such utility corridors into relevant departmental and agency land use and resource management plans or their equivalent.

(c) FEDERAL PERMIT COORDINATION.—The Secretary, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense, shall develop a memorandum of understanding (''MOU'') for the purpose of coordinating all applicable Federal authorizations and environmental reviews related to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary shall coordinate the process developed in the MOU with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility to ensure timely review and permit decisions. The MOU shall provide for—

(1) the coordination among affected Federal agencies to ensure that the necessary Federal authorizations are conducted concurrently with applicable State siting processes and are considered within a specific time frame to be identified in the MOU;

(2) an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and

(3) a process to expedite applications to construct or modify utility facilities within utility corridors.

Subtitle C Alaska Natural Gas Pipeline

SEC. 131. SHORT TITLE.

This subtitle may be cited as the ''Alaska Natural Gas Pipeline Act''.

SEC. 132. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) The term ''Alaska natural gas'' means natural gas derived from the area of the State of Alaska lying north of 64 degrees North latitude.

(2) The term ''Alaska natural gas transportation project'' means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under either

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.); or

(B) section 133.

(3) The term ''Alaska natural gas transportation system'' means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President's decision.

(4) The term ''Commission'' means the Federal Energy Regulatory Commission.

(5) The term ''President's decision'' means the decision and report to Congress on the Alaska natural gas transportation system issued by the President on September 22, 1977, pursuant to section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(e) and approved by Public Law 95 158 (91 Stat.1268)).

SEC. 133. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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

(b) ISSUANCE OF CERTIFICATE.—

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

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

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

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

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section not more than 60 days after the issuance of the final environmental impact statement for that project pursuant to section 134.

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

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

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

(e) OPEN SEASON.—Except where an expansion is ordered pursuant to section 135, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations governing the conduct of open seasons for such project. Such procedures shall include the criteria for and timing of any open seasons; promote competition in the exploration, development, and production of Alaska natural gas; and, for any open season for capacity beyond the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission shall issue such regulations not later than 120 days after the date of enactment of this Act.

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

(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that it has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.

(h) ALASKA ROYALTY GAS.—The Commission, upon the request of the State of Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project for the State of Alaska or its designee for the transportation of the

State's royalty gas for local consumption needs within the State; except that the rates of existing shippers of subscribed capacity on such project shall not be increased as a result of such access.

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

SEC. 134. ENVIRONMENTAL REVIEWS.

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 133 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

(b) DESIGNATION OF LEAD AGENCY.—The Commission shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969, and shall be responsible for preparing the statement required by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under section 133. The Commission shall prepare a single environmental statement under this section, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project.

(c) OTHER AGENCIES.—All Federal agencies considering aspects of the construction and operation of an Alaska natural gas transportation project under section 133 shall cooperate with the Commission, and shall comply with deadlines established by the Commission in the preparation of the statement under this section. The statement prepared under this section shall be used by all such agencies to satisfy their responsibilities under section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) with respect to such project.

(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section not later than 12 months after the Commission determines the application to be complete and shall issue the final statement not later than 6 months after the Commission issues the draft statement, unless the Commission for good cause finds that additional time is needed.

SEC. 135. PIPELINE EXPANSION.

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

(b) REQUIREMENTS.—Before ordering an expansion, the Commission shall—

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

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

(3) find that the proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms and conditions consistent with the then-effective tariff of the Alaska natural gas transportation project;

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

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

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

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

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

(c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—Any order of the Commission issued pursuant to this section shall be null and void unless the person or persons requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within a reasonable period of time as specified in such order.

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

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

SEC. 136. FEDERAL COORDINATOR.

(a) ESTABLISHMENT.—There is established, as an independent office in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) FEDERAL COORDINATOR.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall—

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

(2) for a term equal to the period required to design, permit and construction the project plus one year; and

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

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

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

(2) ensuring the compliance of Federal agencies with the provisions of this subtitle.

(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—

(1) All reviews conducted and actions taken by any Federal officer or agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines set forth in this subtitle.

(2) No Federal officer or agency shall have the authority to include terms and conditions that are permitted, but not required, by law on any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the project.

(3) Unless required by law, no Federal officer or agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that such action would prevent or impair in any significant respect the expeditious construction and operation of, or an expansion of, the project.

(4) The Federal Coordinator's authority shall not include the ability to override—

(A) the implementation or enforcement of regulations issued by the Commission pursuant to Section 133(e); or

(B) an order by the Commission to expand the project pursuant to Section 135.

(5) Nothing in this section shall give the Federal Coordinator the authority to impose additional terms, conditions or requirements beyond those imposed by the Commission or any agency with respect to construction and operation, or an expansion of, the project.

(e) STATE COORDINATION.—The Federal Coordinator shall enter into a Joint Surveillance and Monitoring Agreement, approved by the President and the Governor of Alaska, with the State of Alaska similar to that in effect during construction of the Trans-Alaska Oil Pipeline to monitor the construction of the Alaska natural gas transportation project. The Federal Government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses Federal lands and private lands, and the State government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses State lands.

(f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—Upon appointment of the Federal Coordinator by the President, all of the functions and authority of the Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System vested in the Secretary of Energy pursuant to section 3012(b) of Public Law 102–486 (15 U.S.C. 719e(b)), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33,663), Executive Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36,927), and section 5 of the President's decision, shall be transferred to the Federal Coordinator.

SEC. 137. JUDICIAL REVIEW.

(a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court of the United States on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

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

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

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

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

(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

(d) AMENDMENT TO ANGTA.—Section 10(c) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended by inserting after paragraph (1) the following:

''(2) The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under this section for expedited consideration, taking into account the national interest described in section 2.''.

SEC. 138. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.

(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska natural gas transportation project for delivery to consumers within the State of Alaska shall be deemed to be a local distribution facility within the meaning of section 1(b) of the

Natural Gas Act (15 U.S.C. 717(b)), and therefore not subject to the jurisdiction of the Commission.

(b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in section 133(d), shall preclude or affect a future gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State of Alaska for consumption within or distribution outside the State of Alaska.

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

SEC. 139. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission not later than 18 months after the date of enactment of this Act, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of the project.

(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a Government corporation to construct an Alaska natural gas transportation project, and alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the project.

(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).

(d) REPORT.—If the Secretary of Energy is required to conduct a study under subsection (a), the Secretary shall submit a report containing the results of the study, the Secretary's recommendations, and any proposals for legislation to implement the Secretary's recommendations to Congress.

SEC. 140. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.

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

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal officer or agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(g)) may add to, amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), so long as such action does not compel a change in the basic nature and general route of the Alaska natural gas transportation system as designated and described in section 2 of the President's decision, or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary of Energy shall require the sponsor of the Alaska natural gas transportation system to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's decision.

SEC. 141. SENSE OF CONGRESS.

It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to make every effort to use steel that is manufactured or produced in North America and to negotiate a project labor agreement to expedite construction of the pipeline.

SEC. 142. PARTICIPATION OF SMALL BUSINESS CONCERNS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(b) STUDY.—

(1) The Comptroller General shall conduct a study on the extent to which small business concerns participate in the construction of oil and gas pipelines in the United States.

(2) Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report containing the results of the study.

(3) The Comptroller General shall update the study at least once every 5 years and transmit to Congress a report containing the results of the update.

(4) After the date of completion of the construction of an Alaska natural gas transportation project, this subsection shall no longer apply.

(c) SMALL BUSINESS CONCERN DEFINED.—In this section, the term ''small business concern'' has the meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 143. ALASKA PIPELINE CONSTRUCTION TRAINING PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Labor (in this section referred to as the ''Secretary'') may make grants to the Alaska Department of Labor and Workforce Development to—

(1) develop a plan to train, through the workforce investment system established in the State of Alaska under the Workforce Investment Act of 1998 (112 Stat. 936 et seq.), adult and dislocated workers, including Alaska Natives, in urban and rural Alaska in the skills required to construct and operate an Alaska gas pipeline system; and

(2) implement the plan developed pursuant to paragraph (1).

(b) REQUIREMENTS FOR PLANNING GRANTS.—The Secretary may make a grant under subsection (a)(1) only if—

(1) the Governor of Alaska certifies in writing to the Secretary that there is a reasonable expectation that construction of an Alaska gas pipeline will commence within 3 years after the date of such certification; and

(2) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (1).

(c) REQUIREMENTS FOR IMPLEMENTATION GRANTS.—The Secretary may make a grant under subsection (a)(2) only if—

(1) the Secretary has approved a plan developed pursuant to subsection (a)(1);

(2) the Governor of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that the construction of an Alaska gas pipeline system will commence within 2 years after the date of such certification; and

(3) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (2) after considering—

(A) the status of necessary State and Federal permits;

(B) the availability of financing for the pipeline project; and

(C) other relevant factors and circumstances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary, but not to exceed $20,000,000, to carry out this section.

SEC. 144. LOAN GUARANTEES.

(a) AUTHORITY.—

(1) The Secretary may enter agreements with 1 or more holders of a certificate of public convenience and necessity issued under section 133(b) of this Act or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project.

(2) Subject to the requirements of this section, the Secretary may also enter into agreements with 1 or more owners of the Canadian portion of a qualified infrastructure project to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project as though such owner were a holder described in paragraph (1).

(3) The authority of the Secretary to issue Federal guarantee instruments under this section for a qualified infrastructure project shall expire on the date that is 2 years after the date on which the final certificate of public convenience and necessity (including any Canadian certificates of public convenience and necessity) is issued for the project. A final certificate shall be considered to have been issued when all certificates of public convenience and necessity have been issued that are required for the initial transportation of commercially economic quantities of natural gas from Alaska to the continental United States.

(b) CONDITIONS.—

(1) The Secretary may issue a Federal guarantee instrument for a qualified infrastructure project only after a certificate of public convenience and necessity under section 133(b) of this Act or an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) has been issued for the project.

(2) The Secretary may issue a Federal guarantee instrument under this section for a qualified infrastructure project only if the loan or other debt obligation guaranteed by the instrument has been issued by an eligible lender.

(3) The Secretary shall not require as a condition of issuing a Federal guarantee instrument under this section any contractual commitment or other form of credit support of the sponsors (other than equity contribution commitments and completion guarantees), or any throughput or other guarantee from prospective shippers greater than such guarantees as shall be required by the project owners.

(c) LIMITATIONS ON AMOUNTS.—

(1) The amount of loans and other debt obligations guaranteed under this section for a

qualified infrastructure project shall not exceed 80 percent of the total capital costs of the project, including interest during construction.

(2) The principal amount of loans and other debt obligations guaranteed under this section shall not exceed, in the aggregate, $18,000,000,000, which amount shall be indexed for United States dollar inflation from the date of enactment of this Act, as measured by the Consumer Price Index.

(d) LOAN TERMS AND FEES.—

(1) The Secretary may issue Federal guarantee instruments under this section that take into account repayment profiles and grace periods justified by project cash flows and project-specific considerations. The term of any loan guaranteed under this section shall not exceed 30 years.

(2) An eligible lender may assess and collect from the borrower such other fees and costs associated with the application and origination of the loan or other debt obligation as are reasonable and customary for a project finance transaction in the oil and gas sector.

(e) REGULATIONS.—The Secretary may issue regulations to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)). Such sums shall remain available until expended.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) The term ''Consumer Price Index'' means the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics, or if such index shall cease to be published, any successor index or reasonable substitute thereof.

(2) The term ''eligible lender'' means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c)) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d)) that is a qualified institutional buyer.

(3) The term ''Federal guarantee instrument'' means any guarantee or other pledge by the Secretary to pledge the full faith and credit of the United States to pay all of the principal and interest on any loan or other debt obligation entered into by a holder of a certificate of public convenience and necessity.

(4) The term ''qualified infrastructure project'' means an Alaskan natural gas transportation project consisting of the design, engineering, finance, construction, and completion of pipelines and related transportation and production systems (including gas treatment plants), and appurtenances thereto, that are used to transport natural gas from the Alaska North Slope to the continental United States.

(5) The term ''Secretary'' means the Secretary of Energy.

SEC. 145. SENSE OF CONGRESS ON NATURAL GAS DEMAND.

It is the sense of Congress that:

(1) North American demand for natural gas will increase dramatically over the course of the next several decades.

(2) Both the Alaska Natural Gas Pipeline and the McKenzie Delta Natural Gas project in Canada will be necessary to help meet the increased demand for natural gas in North America.

(3) Federal and state officials should work together with officials in Canada to ensure both projects can move forward in a mutually beneficial fashion.

(4) Federal and state officials should acknowledge that the smaller scope, fewer permitting requirements and lower cost of the McKenzie Delta project means it will most likely be completed before the Alaska Natural Gas Pipeline.

(5) Lower 48 and Canadian natural gas production alone will not be able to meet all domestic demand in the coming decades.

(6) As a result, natural gas delivered from Alaska's North Slope will not displace or reduce the commercial viability of Canadian natural gas produced from the McKenzie Delta nor production from the Lower 48.

TITLE II—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

CLEAN COAL POWER INITIATIVE.—There is authorized to be appropriated to the Secretary of Energy (in this subtitle, referred to as ''Secretary'') to carry out the activities authorized by this subtitle $200,000,000 for each of the fiscal years 2003 through 2011, to remain available until expended.

SEC. 202. PROJECT CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this subtitle for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) TECHNICAL CRITERIA FOR GASIFICATION.—In allocating the funds made available under section 201, the Secretary shall ensure that at least 80 percent of the funds are used for coal-based gasification technologies or coal-based projects that include gasification combined cycle, gasification fuel cells, gasification co-production, or hybrid gasification/combustion. The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able to—

(1) remove 99 percent of sulfur dioxide;

(2) emit no more than .05 lbs of NOx per million BTU;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 60 percent for coal of more than 9,000 Btu;

(B) 59 percent for coal of 7,000 to 9,000 Btu; and

(C) 57 percent for coal of less than 7,000 Btu.

(c) TECHNICAL CRITERIA FOR OTHER PROJECTS.—For projects not described in subsection (b), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able to—

(1) remove 97 percent of sulfur dioxide;

(2) emit no more than .08 lbs of NOx per million BTU;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 45 percent for coal of more than 9,000 Btu;

(B) 44 percent for coal of 7,000 to 9,000 Btu; and

(C) 42 percent for coal of less than 7,000 Btu.

(d) EXISTING UNITS.—In the case of projects at existing units, in lieu of the thermal efficiency requirements set forth in paragraphs (b)(4) and (c)(4), the projects shall be designed to achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(e) PERMITTED USES.—In allocating funds made available in this section, the Secretary may allocate funds to projects that include, as part of the project, the separation and capture of carbon dioxide.

(f) CONSULTATION.—Before setting the technical milestones under subsections (b) and (c), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(g) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this title unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(h) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of this section and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(i) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent.

(j) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable for purposes of section 169 of that Act, or achievable in practice for purposes of section 171 of that Act solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title.

SEC. 203. REPORTS.

(a) TEN-YEAR PLAN.—By September 30, 2004, the Secretary shall transmit to Congress a report, with respect to section 202(a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under section 201 are 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 General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(b) TECHNICAL MILESTONES.—Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2011, the Secretary, in consultation with other appropriate Federal agencies, shall transmit to the Congress, a report describing—

(1) the technical milestones set forth in section 212 and how those milestones ensure progress toward meeting the requirements of subsections (b) and (c) of section 212; and

(2) the status of projects funded under this title.

SEC. 204. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 211, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

Subtitle B—Federal Coal Leases

SEC. 211. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended by striking all the text in the first sentence after ''upon'' and inserting the following: ''a finding by the Secretary that it (1) would be in the interest of the United States, (2) would not displace a competitive interest in the lands, and (3) would not include lands or deposits that can be developed as part of another potential or existing operation, secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in such lease, but in no event shall the total area added by such modifications to an existing coal lease exceed 320 acres, or add acreage larger than that in the original lease.''.

SEC. 212. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) The Secretary may establish a period of more than forty years if the Secretary determines that the longer period will ensure the maximum economic recovery of a coal deposit, or the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.''.

SEC. 213. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 207(b)) is amended by striking all after ''Secretary).'' through to ''a lease.'' and inserting: ''The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed twenty. The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.''.

SEC. 214. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

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,''.

SEC. 215. APPLICATION OF AMENDMENTS.

The amendments made by this Act apply with respect to any coal lease issued on or after the date of enactment of this Act, and, with respect to any coal lease issued before the date of enactment of this Act, upon the date of readjustment of the lease as provided for by section 7(a) of the Mineral Leasing Act, or upon request by the lessee, prior to such date.

Subtitle C—Powder River Basin Shared Mineral Estates

SEC. 221. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

The Secretary of the Interior shall—

(1) undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana; and

(2) not later than 6 months after the enactment of this Act, report to the Congress on alternatives to resolve these conflicts and identification of a preferred alternative with specific legislative language, if any, required to implement the preferred alternative.

TITLE III—INDIAN ENERGY

SEC. 301. SHORT TITLE.

This title may be cited as the ''Indian Tribal Energy Development and Self-Determination Act of 2003''.

SEC. 302. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) IN GENERAL.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

''SEC. 217. (a) ESTABLISHMENT.—There is established within the Department 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 shall in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, 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; and

''(4) electrify Indian tribal land and the homes of tribal members.

''COMPREHENSIVE INDIAN ENERGY ACTIVITIES

''SEC. 218. (a) INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE.—

''(1) The Director shall establish programs within the Office of Indian Energy Policy and Programs to assist Indian tribes in meeting energy education, research and development, planning, and management needs.

''(2) In carrying out this section, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal consortium for use in carrying out—

''(A) energy, energy efficiency, and energy conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

''(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

''(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

''(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this section.

''(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

''(4) The Secretary may promulgate such regulations as the Secretary determines are necessary to carry out this subsection.

''(5) There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2004 through 2011.

''(b) LOAN GUARANTEE PROGRAM.—

''(1) Subject to paragraph (3), the Secretary may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

''(2) A loan guaranteed under this subsection shall be made by—

''(A) a financial institution subject to examination by the Secretary; or

''(B) an Indian tribe, from funds of the Indian tribe.

''(3) The aggregate outstanding amount guaranteed by the Secretary at any time under this subsection shall not exceed $2,000,000,000.

''(4) The Secretary may promulgate such regulations as the Secretary determines are necessary to carry out this subsection.

''(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

''(6) Not later than 1 year from the date of enactment of this section, the Secretary shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

''(c) INDIAN ENERGY 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 production 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; and

''(B) obtain less than prevailing market terms and conditions.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 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.

''Sec. 216. Office of Intelligence.

''Sec. 217. Office of Indian Energy Policy and Programs.

''Sec. 218. Comprehensive Indian Energy Activities.''.

(2) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs,

Department of Energy.'' after ''Inspector General, Department of Energy.''.

SEC. 303. INDIAN ENERGY.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

''TITLE XXVI—INDIAN ENERGY

''SEC. 2601. DEFINITIONS.

''For purposes of this title:

''(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs.

''(2) The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and

''(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(3) The term 'Indian reservation' includes—

''(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma;

''(D) a parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(E) a dependent Indian community located within the borders of the United States,

regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(5) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(6) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

''(7) The term 'Program' means the Indian energy resource development program established under section 2602(a).

''(8) The term 'Secretary' means the Secretary of the Interior.

''(9) The term 'tribal consortium' means an organization that consists of 2 or more entities, at least 1 of which is an Indian tribe.

''(10) The term 'tribal land' means any land or interests in land owned by any Indian tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

''(11) The term 'vertical integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission facility), on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

''SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

''(a) IN GENERAL.—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 program to assist Indian tribes and tribal consortia in achieving the purposes of this title.

''(b) GRANTS AND LOANS.—In carrying out the Program, the Secretary shall

''(1) provide development grants to Indian tribes and tribal consortia for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land;

''(2) provide grants to Indian tribes and tribal consortia for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

''(3) provide low-interest loans to Indian tribes and tribal consortia for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2014.

''SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

''(a) GRANTS.—The Secretary may provide to Indian tribes and tribal consortia, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

''(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an Indian tribe or tribal consortium for—

''(1) the development of a tribal energy resource inventory or tribal energy resource on Indian land;

''(2) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

''(3) the development and enforcement of tribal laws and the development of technical infrastructure to protect the environment under applicable law; or

''(4) 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.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes and tribal consortia scientific and technical data for use in the development and management of energy resources on Indian land.

''SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

''(a) LEASES AND AGREEMENTS.—Subject to the provisions of this section—

''(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of energy resources on tribal land; and

''(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or 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 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 in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(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 and gas resources, 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 an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

''(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 specific approval by the Secretary if—

''(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(2) the term of the right-of-way does not exceed 30 years;

''(3) the pipeline or electric transmission or distribution line serves—

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

''(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

''(4) 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 an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

''(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 under this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with tribal energy resource agreements approved by the Secretary under subsection (e).

''(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

''(1) On promulgation of regulations under paragraph (9), 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 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall 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 that, with respect to a

lease, business agreement, or right-of-way under this section—

''(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

''(II) 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 consideration for the lease, business agreement, or right-of-way;

''(V) address technical or other relevant requirements;

''(VI) establish requirements for environmental review in accordance with subparagraph (C);

''(VII) ensure compliance with all applicable environmental laws;

''(VIII) identify final approval authority;

''(IX) provide for public notification of final approvals;

''(X) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way; and

''(XI) describe the remedies for breach of the lease, agreement, or right-of-way.

''(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—

''(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

''(ii) the identification of proposed mitigation;

''(iii) a process for ensuring that the public is informed of and has an opportunity to comment on any proposed lease, business agreement, or right-of-way before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of the lease, business agreement, or right-of-way); and

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

''(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

''(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

''(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

''(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted under paragraph (1).

''(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall—

''(A) notify the Indian tribe in writing of the basis for the disapproval;

''(B) identify what changes or other actions are required to address the concerns of the Secretary; and

''(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

''(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to subsection (e)(9), provide to the Secretary—

''(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

''(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

''(6) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of the terms of any lease, business agreement or right-of-way by any other party to the lease, business agreement, or right-of-way.

''(7)(A) The United States shall not be liable for any loss or injury sustained by any party (including an Indian tribe or any member of an Indian tribe) to a lease, business agreement, or right-of-way executed in accordance with tribal energy resource agreements approved under this subsection.

''(B) On approval of a tribal energy resource agreement of an Indian tribe under paragraph (1), the Indian tribe shall be stopped from asserting a claim against the United States on the grounds that the Secretary should not have approved the Tribal energy resource agreement.

''(8)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain a significant adverse impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

''(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(9), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved under this subsection.

''(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal energy resource agreement approved under this subsection, the Secretary shall take such action as is necessary to compel compliance, including—

''(i) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement; and

''(ii) rescinding approval of the tribal energy resource agreement and reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsections (a) and (b).

''(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

''(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

''(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

''(iii) before taking any action described in subparagraph (C)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

''(E)(i) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

''(ii) The decision of the Secretary with respect to an appeal described in clause (i), after any agency appeal provided for by regulation, shall constitute a final agency action.

''(9) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

''(A) criteria to be used in determining the capacity of an Indian tribe described in 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; and

''(B) a process and requirements in accordance with which an Indian tribe may—

''(i) voluntarily rescind an approved tribal energy resource agreement approved by the Secretary under this subsection; and

''(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection.

''(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

''(1) any Federal environmental law;

''(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

''(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

''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) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

''(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, and in accordance with existing law—

''(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

''(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

''(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

''(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

''(d) ASSISTANCE 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.

''(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

''(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall submit to the Congress a report that—

''(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

''(2) identifies—

''(A) the quantity of power allocated to Indian tribes by the Western Area Power Administration;

''(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

''(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

''SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.

''(a) IN GENERAL.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

''(b) REPORT.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

''(1) the results of the review;

''(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

''(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

''SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

''(a) STUDY.—The Secretary, in coordination with the Secretary of the Army and the Secretary of the Interior, shall conduct a study of the cost and feasibility of developing a demonstration project that would use 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 feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

''(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

''(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

''(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

''(5) include an independent tribal engineer as a study team member.

''(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

''(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

''(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

''(3) recommendations for a demonstration project that could be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal consortium to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

''(4) an identification of—

''(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

''(B) the manner in which such a partnership could contribute to the energy security of the United States.

''(d) FUNDING.—

''(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

''(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.''.

SEC. 304. FOUR CORNERS TRANSMISSION LINE PROJECT.

The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance as authorized by section 302 of this title and section 2602 of the Energy Policy Act of 1992, as amended by this title, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

SEC. 305. ENERGY EFFICIENCY IN FEDERALLY ASSISTED HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(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

(3) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(b) AMENDMENT.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting 'improvement to achieve greater energy efficiency,' after 'planning,'.

SEC. 306. CONSULTATION WITH INDIAN TRIBES.

In carrying out this Act and the amendments made by this Act, the Secretary of Energy and the Secretary shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes in a manner that is consistent with the Federal trust and the government-to-government relationships between Indian tribes and the United States.

TITLE IV—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 401. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2003''.

SEC. 402. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES'';

(2) by striking ''licenses issued between August 30, 1954, and December 31, 2003'' and inserting ''licenses issued after August 30, 1954''; and

(3) by striking ''With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and December 31, 2003, the requirements of this subsection shall apply to any license issued for such facility subsequent to December 31, 2003.''

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until December 31, 2004,''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended—

(1) by striking ''licenses issued between August 30, 1954, and August 1, 2002'' and replacing it with ''licenses issued after August 30, 1954''; and

(2) by striking ''With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 2002, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 2002.''

SEC. 403. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking ''$63,000,000'' and inserting ''$94,000,000''; and

(B) by striking ''$10,000,000 in any 1 year'' and inserting ''$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)''; and

(2) in subsection t.(1)—

(A) by inserting ''total and annual'' after ''amount of the maximum'';

(B) by striking ''the date of the enactment of the Price-Anderson Amendments Act of 1988'' and inserting ''July 1, 2003''; and

(C) by striking ''such date of enactment'' and inserting ''July 1, 2003''.

SEC. 404. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

''(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

''(B) shall indemnify the 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 subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs

of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170d. of the Atomic Energy Act of 1954 (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 be amended, on the date of enactment of the Price-Anderson Amendments Act of 2003, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.

(c) LIABILITY LIMIT.—Section 170e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended by:

(1) striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

SEC. 405. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 406. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2013''.

SEC. 407. INFLATION ADJUSTMENT.

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

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5–year period following July 1, 2003, 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.''.

SEC. 408. TREATMENT OF MODULAR REACTORS.

Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

''(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.

SEC. 409. APPLICABILITY.

The amendments made by sections 403, 404, and 405 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 410. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234Ab.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

''d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.

''(2) For purposes of this section, the term ''not-for-profit'' means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

Subtitle B—Deployment of New Nuclear Plants

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Nuclear Energy Finance Act of 2003.''

SEC. 422. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''advanced reactor design'' means a nuclear reactor that enhances safety, efficiency, proliferation resistance, or waste reduction compared to commercial nuclear reactors in use in the United States on the date of enactment of this Act.

(2) The term ''eligible project costs'' means all costs incurred by a project developer that are reasonably related to the development and construction of a project under this subtitle, including costs resulting from regulatory or licensing delays.

(3) The term ''financial assistance'' means a loan guarantee, purchase agreement, or any combination of the foregoing.

(4) The term ''loan guarantee'' means any guarantee or other pledge by the Secretary to pay all or part of the principal and interest on a loan or other debt obligation issued by a project developer and funded by a lender.

(5) The term ''project'' means any commercial nuclear power facility for the production of electricity that uses one or more advanced reactor designs.

(6) The term ''project developer'' means an individual, corporation, partnership, joint venture, trust, or other entity that is primarily liable for payment of a project's eligible costs.

(7) The term ''purchase agreement'' means a contract to purchase the electric energy produced by a project under this subtitle.

(8) The term ''Secretary'' means the Secretary of Energy.

SEC. 423. RESPONSIBILITIES OF THE SECRETARY.

(a) FINANCIAL ASSISTANCE.—Subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may, subject to appropriations, make available to project developers for eligible project costs such financial assistance as the Secretary determines is necessary to supplement private-sector financing for projects if he determines that such projects are needed to contribute to energy security, fuel or technology diversity, or clean air attainment goals. The Secretary shall prescribe such terms and conditions for financial assistance as the Secretary deems necessary or appropriate to protect the financial interests of the United States.

(b) REQUIREMENTS.—Approval criteria for financial assistance shall include—

(1) the creditworthiness of the project;

(2) the extent to which financial assistance would encourage public-private partnerships and attract private-sector investment;

(3) the likelihood that financial assistance would hasten commencement of the project; and,

(4) any other criteria the Secretary deems necessary or appropriate.

(c) CONFIDENTIALITY.—The Secretary shall protect the confidentiality of any information that is certified by a project developer to be commercially sensitive.

(d) FULL FAITH AND CREDIT.—All financial assistance provided by the Secretary under this subtitle shall be general obligations of the United States backed by its full faith and credit.

SEC. 424. LIMITATIONS.

(a) FINANCIAL ASSISTANCE.—The total financial assistance per project provided by this subtitle shall not exceed fifty percent of eligible project costs.

(b) GENERATION.—The total electrical generation capacity of all projects provided by this subtitle shall not exceed 8,400 megawatts.

SEC. 425. REGULATIONS.

Not later than 12 months from the date of enactment of this Act, the Secretary shall issue regulations to implement this subtitle.

Subtitle C—Advanced Reactor Hydrogen Co-Generation Project ,

SEC. 431. PROJECT ESTABLISHMENT.

The Secretary is directed to establish an Advanced Reactor Hydrogen Co-Generation Project.

SEC. 432. PROJECT DEFINITION.

The project shall conduct the research, development, design, construction, and operation of a hydrogen production co-generation testbed that, relative to the current commercial reactors, enhances safety features, reduces waste production, enhances thermal efficiencies, increases proliferation resistance, and has the potential for improved economics and physical security in reactor siting. This testbed shall be constructed so as to enable research and development on advanced reactors of the type selected and on alternative approaches for reactor-based production of hydrogen.

SEC. 433. PROJECT MANAGEMENT.

(a) MANAGEMENT.—The project shall be managed within the Department by the Office of Nuclear Energy Science and Technology.

(b) LEAD LABORATORY.—The lead laboratory for the program, providing the site for the reactor construction, shall be the Idaho National Engineering and Environmental Laboratory (''INEEL'').

(c) STEERING COMMITTEE.—The Secretary shall establish a national steering committee with membership from the national laboratories, universities, and industry to provide advice to the Secretary and the Director of the Office of Nuclear Energy, Science and Technology on technical and program management aspects of the project.

(d) COLLABORATION.—Project activities shall be conducted at INEEL, other national laboratories, universities, domestic industry, and international partners.

SEC. 434. PROJECT REQUIREMENTS.

(a) RESEARCH AND DEVELOPMENT.—The project shall include planning, research and development, design, and construction of an advanced, next-generation, nuclear energy system suitable for enabling further research and development on advanced reactor technologies and alternative approaches for reactor-based generation of hydrogen.

(1) The project shall utilize, where appropriate, extensive reactor test capabilities resident at INEEL.

(2) The project shall be designed to explore technical, environmental, and economic feasibility of alternative approaches for reactor-based hydrogen production.

(3) The industrial lead for the project must be a United States-based company.

(b) INTERNATIONAL COLLABORATION.—The Secretary shall seek international cooperation, participation, and financial contribution in this program.

(1) The project may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(2) International activities shall be coordinated with the Generation IV International Forum.

(3) The Secretary may combine this project with the Generation IV Nuclear Energy Systems Program.

(c) DEMONSTRATION.—The overall project, which may involve demonstration of selected project objectives in a partner nation, must demonstrate both electricity and hydrogen production and may provide flexibility, where technically and economically feasible in the design and construction, to enable tests of alternative reactor core and cooling configurations.

(d) PARTNERSHIPS.—The Secretary shall establish cost-shared partnerships with domestic industry or international participants for the research, development, design, construction and operation of the demonstration facility, and preference in determining the final project structure shall be given to an overall project which retains United States leadership while maximizing cost sharing opportunities and minimizing federal funding responsibilities.

(e) TARGET DATE.—The Secretary shall select technologies and develop the project to provide initial testing of either hydrogen production or electricity generation by 2010 or provide a report to Congress why this date is not feasible.

(f) WAIVER OF CONSTRUCTION TIMELINES.—The Secretary is authorized to conduct the Advanced Reactor Hydrogen Co-Generation Project without the constraints of DOE Order 413.3 as deemed necessary to meet the specified operational date.

(g) COMPETITION.—The Secretary may fund up to two teams for up to one year to develop detailed proposals for competitive evaluation and selection of a single proposal and concept for further progress. The Secretary shall define the format of the competitive evaluation of proposals.

(h) USE OF FACILITIES.—Research facilities in industry, national laboratories, or universities either within the United States or with cooperating international partners may be used to develop the enabling technologies for the demonstration facility. Utilization of domestic university-based testbeds shall be encouraged to provide educational opportunities for student development.

(i) ROLE OF NUCLEAR REGULATORY COMMISSION.—The Secretary shall seek active participation of the Nuclear Regulatory Commission throughout the project to develop risk-based criteria for any future commercial development of a similar reactor architecture.

(j) REPORT.—A comprehensive project plan shall be developed no later than April 30, 2004. The project plan shall be updated annually with each annual budget submission.

SEC. 435. AUTHORIZATION OF APPROPRIATIONS.

(a) RESEARCH, DEVELOPMENT AND DESIGN PROGRAMS.—The following sums are authorized to be appropriated to the Secretary for all activities under this subtitle except for reactor construction:

(1) For fiscal year 2004, $35,000,000;

(2) For each of fiscal years 2005–2008, $150,000,000; and

(3) For fiscal years beyond 2008, such funds as are needed are authorized to be appropriated.

(b) REACTOR CONSTRUCTION.—The following sum is authorized to be appropriated to the Secretary for all project-related construction activities, to be available until expended, $500,000,000.

Subtitle D—Miscellaneous Matters

SEC. 441. URANIUM SALES AND TRANSFERS.

Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by striking subsections (d) and (e) and inserting the following:

''(d)(1)(A) The aggregate annual deliveries of uranium in any form (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, and depleted uranium) sold or transferred for commercial nuclear power end uses by the United States Government shall not exceed 3,000,000 pounds U_3O_8 equivalent per year through calendar year 2009. Such aggregate annual deliveries shall not exceed 5,000,000 pounds U_3O_8 equivalent per year in calendar years 2010 and 2011. Such aggregate annual deliveries shall not exceed 7,000,000 pounds U_3O_8 equivalent in calendar year 2012. Such aggregate annual deliveries shall not exceed 10,000,000 pounds U_3O_8 equivalent per year in calendar year 2013 and each year thereafter. Any sales or transfers by the United States Government to commercial end users shall be limited to long-term contracts of no less than 3 years duration.

''(B) The recovery and extraction of the uranium component from contaminated uranium bearing materials from United States Government sites by commercial entities shall be the preferred method of making uranium available under this subsection. The uranium component contained in such contaminated materials shall be counted against the annual maximum deliveries set forth in this section, provided that uranium is sold to end users.

''(C) Sales or transfers of uranium by the United States Government for the following purposes are exempt from the provisions of this paragraph—

''(i) sales or transfers provided for under existing law for use by the Tennessee Valley Authority in relation to the Department of Energy's high-enriched uranium or tritium programs;

''(ii) sales or transfers to the Department of Energy research reactor sales program;

''(iii) the transfer of up to 3,293 metric tons of uranium to the United States Enrichment Corporation to replace uranium that the Secretary transferred, prior to privatization of the United States Enrichment Corporation in July 1998, to the Corporation on or about June 30, 1993, April 20, 1998, and May 18, 1998, and that does not meet commercial specifications;

''(iv) the sale or transfer of any uranium for emergency purposes in the event of a disruption in supply to end users in the United States;

''(v) the sale or transfer of any uranium in fulfillment of the United States Government's obligations to provide security of supply with respect to implementation of the Russian HEU Agreement; and

''(vi) the sale or transfer of any enriched uranium for use in an advanced commercial nuclear power plant in the United States with nonstandard fuel requirements.

''(D) The Secretary may transfer or sell enriched uranium to any person for national security purposes, as determined by the Secretary.

''(2) Except as provided in subsections (b) and (c), and in paragraph (1)(B), clauses (i) through (iii) of paragraph (1)(C), and paragraph (1)(D) of this subsection, no sale or transfer of uranium in any form shall be made by the United States Government unless—

''(A) the President determines that the material is not necessary for national security needs;

''(B) the price paid to the Secretary, if the transaction is a sale, will not be less than the fair market value of the material, as determined at the time that such material is contracted for sale;

''(C) prior to any sale or transfer, the Secretary solicits the written views of the Department of State and the National Security Council with regard to whether such sale or transfer would have any adverse effect on national security interests of the United States, including interests related to the implementation of the Russian HEU Agreement; and

''(D) neither the Department of State nor the National Security Council objects to such sale or transfer.

The Secretary shall endeavor to determine whether a sale or transfer is permitted under this paragraph within 30 days. The Secretary's determinations pursuant to this paragraph shall be made available to interested members of the public prior to authorizing any such sale or transfer.

''(3) Within 1 year after the date of enactment of this subsection and annually thereafter the Secretary shall undertake an assessment for the purpose of reviewing available excess Government uranium inventories, and determining, consistent with the procedures and limitations established in this subsection, the level of inventory to be sold or transferred to end users.

''(4) Within 5 years after the date of enactment of this subsection and biennially thereafter the Secretary shall report to the Congress on the implementation of this subsection. The report shall include a discussion of all sales or transfers made by the United States Government, the impact of such sales or transfers on the domestic uranium industry, the spot market uranium price, and the national security interests of the United States, and any steps taken to remediate any adverse impacts of such sales or transfers.

''(5) For purposes of this subsection, the term 'United States Government' does not include the Tennessee Valley Authority.''.

SEC. 442. DECOMMISSIONING PILOT PROGRAM.

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

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

TITLE V—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 501. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 6 months after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (tidal and thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Secretary

shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary 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 emerging markets, recommendations 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 of Energy $10,000,000 for each of fiscal years 2004 through 2008.

SEC. 502. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking ''and which satisfies'' and all that follows through ''Secretary shall establish.'' and inserting ''. If there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities in any given year, the Secretary shall assign 60 percent of appropriated funds for that year to facilities that use solar, wind, geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity, and assign the remaining 40 percent to other projects. The Secretary may, after transmitting to the Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence.''.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(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, or a political subdivision thereof, or an Indian tribal government of subdivision thereof,''; and

(2) by inserting ''landfill gas,'' after ''wind, biomass,''.

(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking ''during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section'' and inserting ''after October 1, 2003, and before October 1, 2013''.

(d) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting ''landfill gas,'' after ''wind, biomass,''.

(e) SUNSET.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking ''the expiration of'' and all that follows through ''of this section'' and inserting ''September 30, 2023''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 1212(g) of the Energy Policy Act of 1992 (42 U.S.C. 13317(g)) is amended to read as follows:

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2003 through 2023.

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

SEC. 503. RENEWABLE ENERGY ON FEDERAL LANDS.

(a) REPORT.—Within 24 months after the date of enactment of this Act, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall develop and report to the Congress recommendations on opportunities to develop renewable energy on public lands under the jurisdiction of the Secretary of the Interior and National Forest System lands under the jurisdiction of the Secretary of Agriculture. The report shall include—

(1) 5-year plans developed by the Secretary of the Interior and the Secretary of Agriculture, respectively, for encouraging the development of renewable energy consistent with applicable law and management plans; and

(2) an analysis of—

(A) the use of rights-of-way, leases, or other methods to develop renewable energy on such lands;

(B) the anticipated benefits of grants, loans, tax credits, or other provisions to promote renewable energy development on such lands; and

(C) any issues that the Secretary of the Interior or the Secretary of Agriculture have encountered in managing renewable energy projects on such lands, or believe are likely to arise in relation to the development of renewable energy on such lands;

(3) a list, developed in consultation with the Secretary of Energy and the Secretary of Defense, of lands under the jurisdiction of the Department of Energy or Defense that would be suitable for development for renewable energy, and any recommended statutory and regulatory mechanisms for such development; and

(4) any recommendations pertaining to the issues addressed in the report.

(b) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) Not later than 90 days after the date of the enactment of this section, the Secretary of the Interior shall contract with the National Academy of Sciences to—

(A) study the potential for the development of wind, solar, and ocean (tidal and thermal) energy on the Outer Continental Shelf;

(B) assess existing Federal authorities for the development of such resources; and

(C) recommend statutory and regulatory mechanisms for such development.

(2) The results of the study shall be transmitted to the Congress within 24 months after the date of the enactment of this section.

SEC. 504. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President, acting through the Secretary of Energy, shall seek to ensure that, to the extent economically feasible and technically 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 2005 through 2007,

(2) not less than 5 percent in fiscal years 2008 through 2010, and

(3) not less than 7.5 percent in fiscal year 2011 and each fiscal year thereafter.

(b) DEFINITION.—For purposes of this section—

(1) the term ''biomass'' means any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled; or

(C) agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) the term ''renewable energy'' means electric energy generated from solar, wind, biomass, geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(c) CALCULATION.—For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(1) the renewable energy is produced and used on-site at a Federal facility;

(2) the renewable energy is produced on Federal lands and used at a Federal facility; or

(3) the renewable energy is produced on Indian land as defined in Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

(d) REPORT.—Not later than April 15, 2005, and every 2 years thereafter, the Secretary of Energy shall provide a report to the Congress on the progress of the Federal Government in meeting the goals established by this section.

SEC. 505. INSULAR AREA RENEWABLE AND ENERGY EFFICIENCY PLANS.

The Secretary of Energy shall update the energy surveys, estimates, and assessments for the insular areas of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau undertaken pursuant to section 604 of Public Law 96–597 (48 U.S.C. 1492) and revise the comprehensive energy plan for the insular areas to reduce reliance on energy imports and increase use of renewable energy resources and energy efficiency opportunities. The update and revision shall by undertaken in consultation with the Secretary of the Interior and the chief executive officer of each insular area and shall be completed and submitted to Congress and to the chief executive officer of each insular area by December 31, 2005.

Subtitle B—Hydroelectric Licensing

SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS.

(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 shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect to such conditions.''.

(b) FISHWAYS.—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 shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect to such fishways.''.

(c) 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:

"SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

''(a) ALTERNATIVE CONDITIONS.—

''(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the Department under whose supervision such reservation falls (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 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, based on substantial evidence provided by the license applicant 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—

''(i) cost less to implement; or

''(ii) result in improved operation of the project works for electricity production, as compared to the condition initially deemed necessary by the Secretary.

''(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) Nothing in this section shall prohibit other interested parties from proposing alternative conditions.

''(5) If the Secretary does not accept an applicant's alternative condition under this section, and the Commission finds that the Secretary's condition would be inconsistent with the purposes of this part, or other applicable law, 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 non-binding 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 reservation. 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 licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway. The alternative may include a fishway or an alternative to a fishway.

''(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee or otherwise available to the Secretary, that such alternative—

''(A) will be no less protective of the fish resources than the fishway initially prescribed by the Secretary; and

''(B) will either—

''(i) cost less to implement; or

''(ii) result in improved operation of the project works for electricity production, as compared to the fishway initially deemed necessary by the Secretary.

''(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) Nothing in this section shall prohibit other interested parties from proposing alternative prescriptions.

''(5) If the Secretary concerned does not accept an applicant's alternative prescription under this section, and the Commission finds that the Secretary's prescription would be inconsistent with the purposes of this part, or other applicable law, 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 non-binding 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.''.

Subtitle C—Geothermal Energy

SEC. 521. COMPETITIVE LEASE SALE REQUIREMENTS.

(a) IN GENERAL.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended by striking the text and inserting the following:

''(a) NOMINATIONS.—The Secretary shall accept nominations at any time from companies and individuals of lands to be leased under this Act.

''(b) COMPETITIVE LEASE SALE REQUIRED.—The Secretary shall hold a competitive lease sale at least once every 2 years for lands in a State in which there are nominations pending under subsection (a) where such lands are otherwise available for leasing.

''(c) NONCOMPETITIVE LEASING.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in the competitive lease sale.''.

(b) PENDING LEASE APPLICATIONS.—It shall be a priority for the Secretary of the Interior and, with respect to National Forest lands, the Secretary of Agriculture, to ensure timely completion of administrative actions necessary to conduct competitive lease sales for lands with pending applications for geothermal leasing as of the date of enactment of this section where such lands are otherwise available for leasing.

SEC. 522. GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to the Congress a memorandum of understanding in accordance with this section regarding leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall—

(1) identify known geothermal resources areas on lands included in the National Forest System and, when necessary, require review of management plans to consider leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) as a land use; and

(2) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application processing.

(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. 523. LEASING AND PERMITTING ON FEDERAL LANDS WITHDRAWN FOR MILITARY PURPOSES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Defense, in consultation with interested states, counties, representatives of the geothermal industry, and interested members of the public, shall submit to the Congress a joint report concerning leasing and permitting activities for geothermal energy on Federal lands withdrawn for military purposes. Such report shall—

(1) describe any differences, including differences in royalty structure and revenue sharing with states and counties, between—

(A) the implementation of the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable Federal law by the Secretary of the Interior; and

(B) the administration of geothermal leasing under section 2689 of title 10, United States Code, by the Secretary of Defense;

(2) identify procedures for interagency coordination to ensure efficient processing and administration of leases or contracts for geothermal energy on federal lands withdrawn for military purposes, consistent with the defense purposes of such withdrawals; and

(3) provide recommendations for legislative or administrative actions that could facilitate program administration, including a common royalty structure.

SEC. 524. REINSTATEMENT OF LEASES TERMINATED FOR FAILURE TO PAY RENT.

Section 5(c) of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(c)), is amended in the last sentence by inserting ''or was inadvertent,'' after ''reasonable diligence,''.

SEC. 525. ROYALTY REDUCTION AND RELIEF.

(a) RULEMAKING.—Within one year after the date of enactment of this Act, the Secretary shall promulgate a final regulation providing a methodology for determining the

amount or value of the steam for purposes of calculating the royalty due to be paid on such production pursuant to section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004). The final regulation shall provide for a simplified methodology for calculating the royalty. In undertaking the rulemaking, the Secretary shall consider the use of a percent of revenue method and shall ensure that the final rule will result in the same level of royalty revenues as the regulation in effect on the date of enactment of this provision.

(b) LOW TEMPERATURE DIRECT USE.—Notwithstanding the provisions of section 5(a) of the Geothermal Steam Act of 1979 (30 U.S.C. 1004(a)), with respect to the direct use of low temperature geothermal resources for purposes other than the generation of electricity, the Secretary shall establish a schedule of fees and collect fees pursuant to such schedule in lieu of royalties based upon the total amount of geothermal resources used. The schedule of fees shall ensure that there is a fair return to the public for the use of the low temperature geothermal resource. With the consent of the lessee, the Secretary may modify the terms of a lease in existence on the date of enactment of this Act in order to reflect the provisions of this subsection.

Subtitle D—Biomass Energy

SEC. 531. DEFINITIONS.

For the purposes of this subtitle:

(1) The term ''eligible operation'' means a facility that is located within the boundaries of an eligible community and uses biomass from federal or Indian lands as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products.

(2) The term ''biomass'' means pre-commercial thinnings of trees and woody plants, or non-merchantable material, from preventative treatments to reduce hazardous fuels, or reduce or contain disease or insect infestations.

(3) The term ''green ton'' means 2,000 pounds of biomass that has not been mechanically or artificially dried.

(4) The term ''Secretary'' means—

(A) with respect to lands within the National Forest System, the Secretary of Agriculture; or

(B) with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands, the Secretary of the Interior.

(5) The term ''eligible community'' means any Indian Reservation, or any county, town, township, municipality, or other similar unit of local government that has a population of not more than 50,000 individuals and is determined by the Secretary to be located in an area near federal of Indian lands which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(6) The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(7) The term ''person'' includes—

(A) an individual;

(B) a community;

(C) an Indian tribe;

(D) a small business or a corporation that is incorporated in the United States; or

(E) a nonprofit organization.

SEC. 532. BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to any person that owns or operates an eligible operation to offset the costs incurred to purchase biomass for use by such eligible operation with priority given to operations using biomass from the highest risk areas.

(b) LIMITATION.—No grant provided under this subsection shall be paid at a rate that exceeds $20 per green ton of biomass delivered.

(c) RECORDS.—Each grant recipient shall keep such records as the Secretary 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 the Secretary, the grant recipient shall provide the Secretary reasonable access to examine the inventory and records of any eligible operation receiving grant funds.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated $12,500,000 each to the Secretary of the Interior and the Secretary of Agriculture for each fiscal year from 2004 through 2008, to remain available until expended.

SEC. 533. IMPROVED BIOMASS UTILIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to persons in eligible communities to offset the costs of developing or researching proposals to improve the use of biomass or add value to biomass utilization.

(b) SELECTION.—Grant recipients shall be selected based on the potential for the proposal to—

(1) develop affordable thermal or electric energy resources for the benefit of an eligible community;

(2) provide opportunities for the creation or expansion of small businesses within an eligible community;

(3) create new job opportunities within an eligible community, and

(4) reduce the hazardous fuels from the highest risk areas.

(c) LIMITATION.—No grant awarded under this subsection shall exceed $500,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated $12,500,000 each to the Secretary of the Interior and the Secretary of Agriculture for each fiscal year from 2004 through 2008, to remain available until expended.

SEC. 534. REPORT.

Not later than 3 years after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Agriculture shall jointly submit to the Congress a report that describes the interim results of the programs authorized under this subtitle.

Subtitle E.—General Provisions Relating to Renewable Fuels

SEC. 534. 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 (r); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this section:

''(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(i) dedicated energy crops and trees;

''(ii) wood and wood residues;

''(iii) plants;

''(iv) grasses;

''(v) agricultural residues;

''(vi) fibers;

''(vii) animal wastes and other waste materials; and

''(viii) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes—

''(I) cellulosic biomass ethanol; and

''(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

''(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) REGULATIONS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Alaska and Hawaii), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

''(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

''(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 cases in geographic areas in which renewable fuel may be used; or

''(bb) impose any per-gallon obligation for the use of renewable fuel.

''(iii) 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 1.8 percent for calendar year 2005.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

''Calendar year:	**Applicable volume of renewable fuel (in billions of gallons):**
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5,000,000,000 gallons of renewable fuel; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31

of each of calendar years 2004 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline sold or introduced into commerce in the United States during the following calendar year.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refiners, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

''(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

''(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

''(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) 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);

''(ii) for the generation of an appropriate amount of credits for biodiesel; and

''(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance—

''(i) subject to clause (ii), for the calendar year in which the credit was generated or the following calendar year; or

''(ii) if the Administrator promulgates regulations under paragraph (6), for the calendar year in which the credit was generated or any of the following 2 calendar years.

''(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) 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—

''(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

''(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The 2 periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2005 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) 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 for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2005, on a national, regional, or State basis.

''(B) REQUIRED EVALUATIONS.—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.—

''(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar 2005.

''(ii) 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).

''(9) SMALL REFINERIES.—

''(A) TEMPORARY EXEMPTION.—

''(i) IN GENERAL.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

''(ii) EXTENSION OF EXEMPTION.—

''(I) STUDY BY SECRETARY OF ENERGY.—Not later than December 31, 2007, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

''(II) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be 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.

''(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

''(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

''(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (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 paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

''(10) ETHANOL MARKET CONCENTRATION ANALYSIS.—

''(A) 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) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

''(B) REPORT.—Not later than December 1, 2004, 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).

''(p) RENEWABLE FUEL SAFE HARBOR.—

''(1) IN GENERAL.—

''(A) SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, no renewable fuel (as defined in subsection (o)(1)) used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing renewable fuel, shall be deemed to be defective in design or manufacture by reason of the fact that the fuel is, or contains, renewable fuel, if—

''(i) the fuel does not violate a control or prohibition imposed by the Administrator under this section; and

''(ii) the manufacturer of the fuel is in compliance with all requests for information under subsection (b).

''(B) SAFE HARBOR NOT APPLICABLE.—In any case in which subparagraph (A) does not apply to a quantity of fuel, the existence of a design defect or manufacturing defect with respect to the fuel shall be determined under otherwise applicable law.

''(2) EXCEPTION.—This subsection does not apply to ethers.

''(3) APPLICABILITY.—This subsection applies with respect to all claims filed on or after the date of enactment of this subsection.''.

(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), or (o)''; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), or (o)''; and

(2) in the first sentence of paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), and (o)''.

(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 (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered 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) EFFECTIVE DATE.—

''(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 for the area that begins after the date of receipt of the notification; or

''(II) 1 year after the date of receipt of the notification.

''(ii) EXTENSION OF EFFECTIVE DATE 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 subparagraph (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 renew the extension 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.''.

SEC. 535. RENEWABLE FUEL.

(a) IN GENERAL.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

''SEC. 212. RENEWABLE FUEL.

''(a) DEFINITIONS.—In this section:

''(1) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

''(2) RFG STATE.—The term 'RFG State' means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(b) SURVEY OF RENEWABLE FUEL MARKET.—

''(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator shall—

''(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

''(i) conventional gasoline containing ethanol;

''(ii) reformulated gasoline containing ethanol;

''(iii) conventional gasoline containing renewable fuel; and

''(iv) reformulated gasoline containing renewable fuel; and

''(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

''(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate.

''(B) RELIANCE ON EXISTING REQUIREMENTS.—To avoid duplicative requirements, in carrying out subparagraph (A), the Administrator shall rely, to the maximum extent practicable, on reporting and recordkeeping requirements in effect on the date of enactment of this section.

''(3) CONFIDENTIALITY.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

''(c) COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

''(2) REQUIREMENTS.—The Secretary may provide a loan guarantee under paragraph (1) to an applicant if—

''(A) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in paragraph (1);

''(B) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

''(C) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

''(4) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

''(A) meet all applicable Federal and State permitting requirements;

''(B) are most likely to be successful; and

''(C) are located in local markets that have the greatest need for the facility because of—

''(i) the limited availability of land for waste disposal; or

''(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

''(5) MATURITY.—A loan guaranteed under paragraph (1) shall have a maturity of not more than 20 years.

''(6) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under paragraph (1) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

''(7) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under paragraph (1) 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.

''(8) GUARANTEE FEE.—The recipient of a loan guarantee under paragraph (1) 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.

''(9) FULL FAITH AND CREDIT.—

''(A) IN GENERAL.—The full faith and credit the United States is pledged to the payment of all guarantees made under this subsection.

''(B) CONCLUSIVE EVIDENCE.—Any guarantee made by the Secretary under this subsection shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

''(C) VALIDITY.—The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

''(10) REPORTS.—Until each guaranteed loan under this subsection has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this subsection.

''(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

''(12) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a new loan guarantee under paragraph (1) terminates on the date that is 10 years after the date of enactment of this section.

''(d) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the University of Mississippi and the University of Oklahoma, $4,000,000 for each of fiscal years 2004 through 2006.

''(e) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

''(1) IN GENERAL.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

''(2) ELIGIBILITY.—

''(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

''(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2004 through 2008.

''(f) CELLULOSIC 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—

''(A) is located in the United States; and

''(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

''(A) $100,000,000 for fiscal year 2004;

''(B) $250,000,000 for fiscal year 2005; and

''(C) $400,000000 for fiscal year 2006.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Clean Air Act (42 U.S.C. 7401 prec.) is amended by inserting after the item relating to section 211 the following:

''212. Renewable fuels.''.

SEC. 536. SURVEY OF RENEWABLE FUELS CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m) SURVEY OF RENEWABLE FUELS CONSUMPTION.—

''(1) IN GENERAL.—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 consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

''(2) ELEMENTS OF SURVEY.—In conducting the survey, the Administrator shall collect information retrospectively to 1998, on a national basis and a regional basis, including—

''(A) the quantity of renewable fuels produced;

''(B) the cost of production;

''(C) the cost of blending and marketing;

''(D) the quantity of renewable fuels blended;

''(E) the quantity of renewable fuels imported; and

''(F) market price data.''.

Subtitle F—Federal Reformulated Fuels

SEC. 537. SHORT TITLE.

This subtitle may be cited as the ''Federal Reformulated Fuels Act of 2003''.

SEC. 538. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraphs (1), (2), and (12)''; and

(B) by inserting ''and section 9010'' before ''if''; and

(2) by adding at the end the following:

''(12) REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

''(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

''(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

''(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

''SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

''Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

''(1) by a State (pursuant to section 9003(h)(7)) acting under—

''(A) a program approved under section 9004; or

''(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

''(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

''SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

''In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

''(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2003, to remain available until expended; and

''(2) to carry out section 9010—

''(A) $50,000,000 for fiscal year 2003; and

''(B) $30,000,000 for each of fiscal years 2004 through 2008.''.

(c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

''Sec. 9010. Release prevention and compliance.

''Sec. 9011. Authorization of appropriations.''.

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking ''sustances'' and inserting ''substances''.

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the second sentence by striking ''referred to'' and all that follows and inserting ''referred to in subparagraph (A) or (B), or both, of section 9001(2).''.

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking ''study taking'' and inserting ''study, taking'';

(B) in subsection (b)(1), by striking ''relevent'' and inserting ''relevant''; and

(C) in subsection (b)(4), by striking ''Evironmental'' and inserting ''Environmental''.

SEC. 539. RESTRICTIONS ON THE USE OF MTBE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section 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;

(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that—

(A) significant use of MTBE could result from the adoption of that standard; and

(B) the use of MTBE would likely be important to the cost-effective implementation of that standard;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) 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;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown as of the date of enactment of this Act;

(10) in the report entitled ''Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline'' and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(11) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting ''fuel or fuel additive or'' after ''Administrator any''; and

(B) by striking ''air pollution which'' and inserting ''air pollution, or water pollution, that'';

(2) in paragraph (4)(B), by inserting ''or water quality protection,'' after ''emission control,''; and

(3) by adding at the end the following:

''(5) RESTRICTIONS ON USE OF MTBE.—

''(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

''(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

''(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

''(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

''(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

''(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

''(A) IN GENERAL.—

''(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of—

''(i) iso-octane or alkylates, unless the Administrator, in consultation with the Secretary of Energy, determines that transition assistance for the production of iso-octane or alkylates is inconsistent with the criteria specified in subparagraph (B); and

''(ii) any other fuel additive that meets the criteria specified in subparagraph (B).

''(B) CRITERIA.—The criteria referred to in subparagraph (A) are that—

''(i) use of the fuel additive is consistent with this subsection;

''(ii) the Administrator has not determined that the fuel additive may reasonably be anticipated to endanger public health or the environment;

''(iii) the fuel additive has been registered and tested, or is being tested, in accordance with the requirements of this section; and

''(iv) the fuel additive will contribute to replacing quantities of motor vehicle fuel rendered unavailable as a result of paragraph (5).

''(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

''(i) is located in the United States; and

''(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

''(I) beginning on the date of enactment of this paragraph; and

''(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

''(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2004 through 2007.''.

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (c) have no effect on the law in effect on the day before the date of enactment of this Act concerning the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 540. 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 second sentence 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;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''; and

(2) by adding at the end the following:

''(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

''(i) 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 refinery 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 for use 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 1999 and 2000 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

''(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall 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 1999 and 2000.

''(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 subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

''(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

''(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

''(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar 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—

''(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

''(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

''(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the

PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

''(aa) 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

''(bb) 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)(II), 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 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

''(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004, 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 subparagraph).''.

(c) COMMINGLING.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by adding at the end the following:

''(11) COMMINGLING.—The regulations under paragraph (1) shall permit the commingling at a retail station of reformulated gasoline containing ethanol and reformulated gasoline that does not contain ethanol if, each time such commingling occurs—

''(A) the retailer notifies the Administrator before the commingling, identifying the exact location of the retail station and the specific tank in which the commingling will take place; and

''(B) the retailer certifies that the reformulated gasoline resulting from the commingling will meet all applicable requirements for reformulated gasoline, including content and emission performance standards.

(d) CONSOLIDATION 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 revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) SAVINGS CLAUSE.—

(1) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 1999 and 2000;

(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 1999 and 2000; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by paragraph (5) of section 211(c) of the Clean Air Act (as added by section 203(c)); and

(II) any such adjustment shall require the 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 by the refiner or importer.

SEC. 541. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking ''may also'' and inserting ''shall, on a regular basis,''; and

(B) by striking subparagraph (A) and inserting the following:

''(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and''; and

(2) by adding at the end the following:

''(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

''(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

''(I) ethyl tertiary butyl ether;

''(II) tertiary amyl methyl ether;

''(III) di-isopropyl ether;

''(IV) tertiary butyl alcohol;

''(V) other ethers and heavy alcohols, as determined by then Administrator;

''(VI) ethanol;

''(VII) iso-octane; and

''(VIII) alkylates; and

''(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

''(iii) 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 describing the results of the studies under clauses (i) and (ii).

''(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities such as—

''(i) the national energy laboratories; and

''(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).''.

SEC. 542. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 5_1(a)) is amended by inserting after subsection (p) the following:

''(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Reliable Fuels Act.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2006.''.

SEC. 543. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking ''(6) OPT-IN AREAS.—(A) Upon'' and inserting the following:

''(6) OPT-IN AREAS.—

''(A) CLASSIFIED AREAS.—

''(i) IN GENERAL.—Upon'';

(2) in subparagraph (B), by striking ''(B) If'' and inserting the following:

''(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If'';

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking ''subparagraph (A)'' and inserting ''clause (i)''; and

(B) in the second sentence, by striking ''this paragraph'' and inserting ''this subparagraph''; and

(4) by adding at the end the following:

''(B) OZONE TRANSPORT REGION.—

''(i) APPLICATION OF PROHIBITION.—

''(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

''(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

''(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

''(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

''(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

''(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

''(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under

clause (i), 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—

''(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

''(bb) may renew the extension 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.''.

SEC. 544. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking ''(C) A State'' and inserting the following:

''(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

''(i) IN GENERAL.—A State''; and

(2) by adding at the end the following:

''(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.''.

SEC. 545. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) 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 or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2007, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 601. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking ''its Federal buildings so that'' and all that follows through the end and inserting ''the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2004 through 2013 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2000, by the percentage specified in the following table:

''Fiscal Year	Percentage reduction
2004	2
2005	4
2006	6
2007	8
2008	10
2009	12
2010	14
2011	16
2012	18
2013	20.''.

(b) EFFECTIVE DATE.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the National Energy Conservation Policy Act, as amended by subsection (a) of this section, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(c) REVIEW OF ENERGY PERFORMANCE REQUIREMENTS.—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:

''(3) Not later than December 31, 2011, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2014 through 2022.''.

(d) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking ''An agency may exclude'' and all that follows through the end and inserting—

''(A) An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (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 reports;

''(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 practicable, life-cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

''(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

''(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

''(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.''.

(e) 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''; and

(2) by striking ''a finding of impracticability'' and inserting ''the exclusion''.

(f) 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 following:

''(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).''.

(g) RETENTION OF ENERGY SAVINGS.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

''(e) RETENTION OF ENERGY SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings. Except as otherwise provided by law, such funds may be used only for energy efficiency or unconventional and renewable energy resources projects.''.

(h) 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 ''THE PRESIDENT AND'' before ''CONGRESS''; and

(2) by inserting ''President and'' before ''Congress''.

(i) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking ''the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).'' and inserting ''each of the energy reduction goals established under section 543(a).''.

SEC. 602. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

''(e) METERING OF ENERGY USE.—

''(1) DEADLINE.—By October 1, 2010, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy 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 Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, national laboratories, universities, and Federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

''(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

''(i) take into consideration—

''(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

''(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

''(III) the measurement and verification protocols of the Department of Energy;

''(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

''(iii) establish priorities for types and locations of buildings to be metered and submetered based on cost effectiveness and a schedule of one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

''(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.—No later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including—

''(A) how the agency will designate personnel primarily responsible for achieving the requirements; and

''(B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.''.

SEC. 603. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking ''CABO Model Energy Code, 1992'' and inserting ''the 2000 International Energy Conservation Code''; and

(2) by adding at the end the following:

''(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that, if cost-effective, for new Federal buildings—

''(i) such buildings be designed so as to achieve energy consumption levels at least 30 percent below those of the most recent version of the International Energy Conservation Code, as appropriate; and

''(ii) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings.

''(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

''(C) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include

''(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

''(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph.''.

SEC. 604. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) PERMANENT EXTENSION.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(b) REPLACEMENT FACILITIES.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced life-cycle costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced, established through a methodology set forth in the contract.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in that subparagraph.''.

(c) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means—

''(A) a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) the increased efficient use of existing energy sources by co-generation or heat recovery, excluding any co-generation process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) the increased efficient use of existing water sources; or

''(B) in the case of a replacement building or facility described in section 801(a)(3), a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, that would otherwise be utilized in one or more existing federally owned buildings or other federally owned facilities by reason of the construction and operation of the replacement building or facility.''.

(d) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

''(A) the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations; or

''(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities. Such contracts shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606).''.

(e) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves water efficiency, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.''.

(f) PILOT PROGRAM FOR NON-BUILDING APPLICATIONS.—

(1) The Secretary of Defense, and the heads of other interested Federal agencies, are authorized to enter into up to 10 energy savings performance contracts under Title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) for the purpose of achieving energy or water savings, secondary savings, and benefits incidental to those purposes, in non-building applications, provided that the aggregate payments to be made by the Federal government under such contracts shall not exceed $100,000,000.

(2) The Secretary of Energy, in consultation with the Secretary of Defense and the heads of other interested Federal agencies, shall select projects that demonstrate the applicability and benefits of energy savings performance contracting to a range of non-building applications.

(3) For the purposes of this subsection:

(A) The term ''non-building application'' means—

(i) any class of vehicles, devices, or equipment that is transportable under its own power by land, sea, or air that consumes energy from any fuel source for the purpose of such transportability, or to maintain a controlled environment within such vehicle, device, or equipment; or

(ii) any Federally owned equipment used to generate electricity or transport water.

(B) The term ''secondary savings'', means additional energy or cost savings that are a direct consequence of the energy or water savings that result from the financing and implementation of the energy savings performance contract, including, but not limited to, energy or cost savings that result from a reduction in the need for fuel delivery and logistical support, or the increased efficiency in the production of electricity.

(4) Not later than 3 years after the date of enactment of this section, the Secretary of Energy shall report to the Congress on the progress and results of the projects funded pursuant to this section. Such report shall include a description of projects undertaken; the energy, water and cost savings, secondary savings and other benefits that resulted from such projects; and recommendations on whether the pilot program should be extended, expanded, or authorized permanently as a part of the program authorized under Title VIII of the National Energy Conservation Policy act (42 U.S.C. 8287 et seq.).

(5) Section 546(c)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by striking the word ''facilities'', and inserting the words ''facilities, equipment and vehicles'', in lieu thereof.

(g) REVIEW.—Within 180 days after the date of the enactment of this section, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including the identification of additional qualified contractors, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 605. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

''SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

''(2) The term 'Energy Star program' means the program established by section 324A of the Energy Policy and Conservation Act.

''(3) The term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

''(4) 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.

''(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

''(1) REQUIREMENT.—To meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall, except as provided in paragraph (2), procure an Energy Star product or a FEMP designated product.

''(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the executive 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) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the executive agency.

''(3) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and 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 functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

''(d) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard within 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

''(e) REGULATIONS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by inserting after the item relating to the end of the items relating to part 3 of title V the following:

''Sec. 552. Federal procurement of energy efficient products.''.

SEC. 606. CONGRESSIONAL BUILDING EFFICIENCY.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act is further amended by adding at the end:

''SEC. 553. CONGRESSIONAL BUILDING EFFICIENCY.

''(a) IN GENERAL.—The Architect of the Capitol—

''(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the 'plan') for all facilities administered by the Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

''(2) 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 include—

''(1) a description of the life-cycle cost analysis 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 measures;

''(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 congressional buildings; and

''(5) information packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

''(c) ANNUAL REPORT.—The Architect shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

''(1) energy expenditures and savings estimates for each facility;

''(2) energy management and conservation projects; and

''(3) future priorities to ensure compliance with this section.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title V the following new item:

''Sec. 553. Energy and water savings measures in congressional buildings.''.

(c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

(d) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Architect of the Capitol to carry out subsection (d), not more than $2,000,000 for fiscal year 2004.

SEC. 607. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(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 new section:

''SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY HEAD.—The term 'agency head' means—

''(A) the Secretary of Transportation; and

''(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

''(2) 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 local government building or other public facility that—

''(A) involves the procurement of cement or concrete; and

''(B) is carried out in whole or in part using Federal funds.

''(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means

''(A) ground granulated blast furnace slag;

''(B) coal combustion fly ash; and

''(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

''(b) 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 greater use 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.

''(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

''(c) FULL IMPLEMENTATION STUDY.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

''(2) MATTERS TO BE ADDRESSED.—The study shall—

''(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

''(B) identify all barriers in procurement requirements to fuller realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

''(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

''(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

''(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

''(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations, Committee on Energy and Commerce, and Committee on Transportation and Infrastructure of the House of Representatives a report on the study.

''(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, within 1 year of the release of the report in accordance with subsection (c)(3), take additional actions authorized under this section to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

''(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

''(2) eliminate barriers identified under subsection (c).

''(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:

''Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.''.

SEC. 608. UTILITY ENERGY SERVICE CONTRACTS.

Section 546(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended to read as follows:

''(1) Agencies are authorized and encouraged to participate in programs, including utility energy services contracts, conducted by gas, water and electric utilities and generally available to customers of such utilities, for the purposes of increased energy efficiency, water conservation or the management of electricity demand.''.

SEC. 609. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within one year of enactment of this section, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report of the Academy to the Congress.

Subtitle B—State and Local Programs

SEC. 611. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency, identify and develop alternative, renewable and distributed energy supplies, and increase energy conservation in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy $20,000,000 for fiscal year 2004 and each fiscal year thereafter through fiscal year 2006.

SEC. 612. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary of Energy may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy such sums as may be necessary for each of fiscal years 2003 through 2012. Not more than 30 percent of appropriated funds shall be used for administration.

SEC. 613. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) The term ''eligible State'' means a State that meets the requirements of subsection (b).

(2) The term ''Energy Star program'' means the program established by section 324A of the Energy Policy and Conservation Act.

(3) The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) The term ''State program'' means a State energy efficient 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 the Secretary may require; and

(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) Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for 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 that calendar year.

(2) For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of 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 be appropriated to carry out this section $50,000,000 for each of the fiscal years 2004 through 2008.

Subtitle C—Consumer Products

SEC. 621. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in subparagraph (30)(S), by striking the period and adding at the end the following: ''but does not include any lamps specifically designed to be used for special purpose applications, and also does not include any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule.''; and

(2) by adding at the end the following:

''(32) The term 'battery charger' means a device that charges batteries for consumer products.

''(33) The term 'commercial refrigerator, freezer and refrigerator-freezer' means a refrigerator, freezer or refrigerator-freezer that—

''(A) is not a consumer product regulated under this Act; and

''(B) incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

''(34) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.

''(35) The term 'illuminated 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 illuminates the legend 'EXIT' and any directional indicators and provides contrast between the legend, any directional indicators, and the background.

''(36)(A) Except as provided in subparagraph (B), the term 'low-voltage dry-type transformer' means a transformer that—

''(i) has an input voltage of 600 volts or less;

''(ii) is air-cooled;

''(iii) does not use oil as a coolant; and

''(iv) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'low-voltage dry-type transformer' does not include—

''(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;

''(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto-transformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application and the application of standards to the transformer would not result in significant energy savings.

''(37)(A) Except as provided in subsection (B), the term 'distribution transformer' means a transformer that—

''(i) has an input voltage of 34.5 kilovolts or less;

''(ii) has an output voltage of 600 volts or less; and

''(iii) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'distribution transformer' does not include—

''(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 15 percent more than the lowest voltage tap;

''(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, autotransformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application, and are unlikely to be used in general purpose applications; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application, is unlikely to be used in general purpose applications, and the application of standards to the transformer would not result in significant energy savings.

''(38) The term 'standby mode' means the lowest amount of electric power used by a household appliance when not performing its active functions, as defined on an individual product basis by the Secretary.

''(39) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

''(40) The term 'transformer' means a device consisting of two or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

''(41) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space, except that such term does not include a warm air furnace.

''(42) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.''

(b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

''(9) Test procedures for illuminated exit signs shall be based on the test method used under Version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

''(10) Test procedures for 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). The Secretary may review and revise this test procedure.

''(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

''(12) Test procedures for medium base compact fluorescent lamps shall be based on the test methods used under the August 9, 2001 version of the Energy Star program of the Environmental Protection Agency and Department of Energy for compact fluorescent lamps. Covered products shall meet all test requirements for regulated parameters in section 325(bb). However, covered products may be marketed prior to completion of lamp life and lumen maintenance at 40 percent of rated life testing provided manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp life time.''; and

(2) by adding at the end the following:

''(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall within 24 months after the date of enactment of this subsection prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers and

refrigerator-freezers. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.''.

(c) NEW STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

''(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION.—

''(1) INITIAL RULEMAKING.—

''(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions of standby mode and test procedures for the standby mode power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing test procedures used for measuring energy consumption in standby mode and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for standby mode energy use for these products.

''(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be promulgated for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of standby energy use that—

''(i) meets the criteria of subsections (o), (p), (q), (r), (s) and (t); and

''(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

''(2) DESIGNATION OF ADDITIONAL COVERED PRODUCTS.—

''(A) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish for public comment and public hearing a notice to determine whether any non-covered products should be designated as covered products for the purpose of instituting a rulemaking under this section to determine whether an energy conservation standard restricting standby mode energy consumption, should be promulgated; except that any restriction on standby mode energy consumption shall be limited to major sources of such consumption.

''(B) In making the determinations pursuant to subparagraph (A) of whether to designate new covered products and institute rulemakings, the Secretary shall, among other relevant factors and in addition to the criteria in section 322(b), consider—

''(i) standby mode power consumption compared to overall product energy consumption; and

''(ii) the priority and energy savings potential of standards which may be promulgated under this subsection compared to other required rulemakings under this section and the available resources of the Department to conduct such rulemakings.

''(C) Not later than 1 year after the date of enactment of this subsection, the Secretary shall issue a determination of any new covered products for which he intends to institute rulemakings on standby mode pursuant to this section and he shall state the dates by which he intends to initiate those rulemakings.

''(3) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to this section should be revised, the Secretary shall consider for covered products which are major sources of standby mode energy consumption whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, the criteria for non-covered products in subparagraph (B) of paragraph (2) of this subsection.

''(4) RULEMAKING.—

''(A) Any rulemaking instituted under this subsection or for covered products under this section which restricts standby mode power consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in this section and the criteria set forth in subparagraph (B) of paragraph (2) of this subsection.

''(B) No standard can be proposed for new covered products or covered products in a standby mode unless the Secretary has promulgated applicable test procedures for each product pursuant to section 323.

''(C) The provisions of section 327 shall apply to new covered products which are subject to the rulemakings for standby mode after a final rule has been issued.

''(5) EFFECTIVE DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported 3 years after the date of promulgation.

''(6) VOLUNTARY PROGRAMS.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A (relating to Energy Star Programs) and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

''(v) SUSPENDED CEILING FANS, VENDING MACHINES, AND COMMERCIAL REFRIGERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—The Secretary shall within 36 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

''(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after January 1, 2005 shall meet the Version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

''(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2005—

''(1) shall consume not more than 190 watts of power; and

''(2) shall not be capable of operating with lamps that total more than 190 watts.

''(y) DISTRIBUTION TRANSFORMERS.—The efficiency of low voltage dry-type transformers manufactured on or after January 1, 2005 shall be the Class I Efficiency Levels for distribution transformers specified in Table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP–1–2002).

''(z) TRAFFIC SIGNAL MODULES.—Traffic signal modules manufactured on or after January 1, 2006 shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this paragraph, and shall be installed with compatible, electrically-connected signal control interface devices and conflict monitoring systems.

''(aa) UNIT HEATERS.—Unit heaters manufactured on or after the date that is three years after the date of enactment of the Energy Policy Act of 2003 shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

''(bb) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—Bare lamp and covered lamp (no reflector) medium base compact fluorescent lamps manufactured on or after January 1, 2005 shall meet the following requirements prescribed by the August 9, 2001 version of the Energy Star Program Requirements for CFLs, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy: minimum initial efficacy; lumen maintenance at 1000 hours; lumen maintenance at 40 percent of rated life; rapid cycle stress test; and lamp life. The Secretary may, by rule, establish requirements for color quality (CRI); power factor; operating frequency; and maximum allowable start time based on the requirements prescribed by the August 9, 2001 version of the Energy Star Program Requirements for CFLs. The Secretary may, by rule, revise these requirements or establish other requirements considering energy savings, cost effectiveness, and consumer satisfaction.

''(cc) EFFECTIVE DATE.—The provisions of section 327 shall apply—

''(1) to products for which standards are to be set pursuant to subsection (v) of this section on the date on which a final rule is issued by the Department of Energy, except that any state or local standards prescribed or enacted for any such product prior to the date on which such final rule is issued shall not be preempted until the standard set pursuant to subsection (v) for that product takes effect; and

''(2) to products for which standards are set in subsections (w) through (bb) of this section on the date of enactment of the Energy Policy Act of 2003, except that any state or local standards prescribed or enacted prior to the date of enactment of the Energy Policy Act of 2003 shall not be preempted until the standards set in subsections (w) through (bb) take effect.''.

SEC. 622. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Paragraph (2) of section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

''(F) Not later than 3 months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed within 2 years after the date of enactment of this subparagraph.''.

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding at the end the following:

''(5) The Secretary or the Commission, as appropriate, may for covered products referred to in subsections (u) through (aa) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for such

products after a test procedure has been set pursuant to section 323. In the case of products to which TP–1 standards under section 325(y) apply, labeling requirements shall be based on the ''Standard for the Labeling of Distribution Transformer Efficiency'' prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect upon the date of enactment of this Act.''.

SEC. 623. ENERGY STAR PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 et. seq.) is amended by inserting the following after section 324:

''SEC. 324A. ENERGY STAR PROGRAM.

''There is established at the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of or other forms of communication about products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

''(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

''(2) work to enhance public awareness of the Energy Star label, including special outreach to small businesses;

''(3) preserve the integrity of the Energy Star label;

''(4) solicit the comments of interested parties in establishing a new Energy Star product category, specifications, or criteria, or in revising a product category, and upon adoption of a new or revised product category, specifications, or criteria, publish a notice of any changes in product categories, specifications or criteria along with an explanation of such changes, and, where appropriate, responses to comments submitted by interested parties; and

''(5) unless waived or reduced by mutual agreement between the Administrator, the Secretary, and the affected parties, provide not less than 12 months lead time prior to implementation of changes in product categories, specifications, or criteria as may be adopted pursuant to this section.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

''Sec. 324A. Energy Star program.''.

SEC. 624. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

''(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems. The Secretary shall carry out the program in a cost-shared manner in cooperation with the Administrator of the Environmental Protection Agency and such other entities as the Secretary considers appropriate, including industry trade associations, industry members, and energy efficiency organizations.

''(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Program, and the Department of Agriculture.''.

Subtitle D—Public Housing

SEC. 631. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: '', including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures''; and

(2) in paragraph (2), by inserting before the semicolon the following: '', including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families''.

SEC. 632. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting ''or efficiency'' after ''energy conservation'';

(2) by striking '', and except that'' and inserting ''; except that''; and

(3) by inserting before the semicolon at the end the following: ''; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency''.

SEC. 633. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated and indented paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting ''or paragraph (10)'' before the first comma; and

(2) by striking ''20 percent'' and inserting ''30 percent''.

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking ''20 percent'' and inserting ''30 percent''.

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

SEC. 634. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking ''and'' at the end;

(B) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

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

''(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, 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; and

''(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and

(2) in subsection (e)(2)(C)—

(A) by striking ''The'' and inserting the following:

''(i) IN GENERAL.—The''; and

(B) by adding 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, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy 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 generations, advanced energy savings technologies, including renewable energy generation, and other such retrofits.''.

SEC. 635. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking ''financed with loans'' and inserting ''assisted'';

(2) by inserting after ''1959,'' the following: ''which are eligible multifamily housing projects (as such term is defined in section 512 of the Multi-family Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to mortgage restructuring and rental assistance sufficiency plans under such Act,''; and

(3) by inserting after the period at the end of the first sentence the following new sentence: ''Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation.''.

SEC. 636. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m 290m–3) is amended by adding at the end the following:

''SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

''Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.''.

SEC. 637. ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Policy and Conservation Act (as amended by this Act), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 638. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2003'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) rehabilitation and new construction of 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), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development.''; and

(B) in paragraph (2), by striking ''Council of American'' and all that follows through ''90.1–1989')'' and inserting ''2000 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2003''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''MODEL ENERGY CODE'' and inserting ''INTERNATIONAL ENERGY CONSERVATION CODE''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''.

SEC. 639. ENERGY STRATEGY FOR HUD.

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures 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 one year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every two years thereafter on progress in implementing the strategy.

TITLE VII—TRANSPORTATION FUELS

Subtitle A—Alternative Fuel Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.

Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

''(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area where—

''(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

''(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

''(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to the 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. FUEL USE CREDITS.

(a) IN GENERAL.—Section 312 of the Energy Policy Act of 1992 (42 U.S.C. 13220) is amended to read as follows:

''SEC. 312. FUEL USE CREDITS.

''(a) ALLOCATION.—

''(1) The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of alternative fuel or biodiesel purchased for use in an on-road motor vehicle operated by the fleet that weighs more than 8,500 pounds gross vehicle weight rating.

''(2) No credits shall be allocated under this section for purchase of an alternative fuel or biodiesel that is required by Federal or State law.

''(3) A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under this section.

''(b) USE.—At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this title, title IV, or title V.

''(c) TREATMENT.—A credit provided to a fleet or covered person under this section shall be considered a credit under section 508.

''(d) ISSUANCE OF RULE.—Not later than 6 months after the date of enactment of this section, the Secretary shall issue a rule establishing procedures for the implementation of this section.

''(e) DEFINITIONS.—For the purposes of this section

''(1) the term 'biodiesel' means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

''(2) the term 'qualifying volume' means—

''(A) in the case of biodiesel, when used as a component of fuel containing at least 20 percent biodiesel by volume, 450 gallons, or if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use; or

''(B) in the case of an alternative fuel, the amount of such fuel determined by the Secretary to have an equivalent energy content to the amount of biodiesel defined as a qualifying volume pursuant to subparagraph (A).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end of the items relating to title III the following new item:

''Sec. 312. Fuel use credits.''

SEC. 703. NEIGHBORHOOD ELECTRIC VEHICLES.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (3), by striking ''or a dual fueled vehicle'' and inserting '', a dual fueled vehicle, or a neighborhood electric vehicle'';

(2) by striking ''and'' at the end of paragraph (13);

(3) by striking the period at the end of paragraph (14) and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'neighborhood electric vehicle' means a motor vehicle—

''(A) which meets the definition of a low-speed vehicle, as such term is defined in part 571 of title 49, Code of Federal Regulations;

''(B) which meets the definition of a zero-emission vehicle, as such term is defined in section 86.1702–99 of title 40, Code of Federal Regulations;

''(C) which meets the requirements of Federal Motor Vehicle Safety Standard No. 500; and

''(D) which has a top speed of not greater than 25 miles per hour.''.

SEC. 704. CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following:

''(e) CREDIT FOR PURCHASE OF MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.—

''(1) DEFINITIONS.—In this subsection:

''(A) The term 'medium duty dedicated vehicle' means a dedicated vehicle that has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

''(B) The term 'heavy duty dedicated vehicle' means a dedicated vehicle that has a gross vehicle weight rating of more than 14,000 pounds.

''(2) CREDITS FOR MEDIUM DUTY VEHICLES.—The Secretary shall issue 2 full credits to a fleet or covered person under this title, if the fleet or covered person acquires a medium duty dedicated vehicle.

''(3) CREDITS FOR HEAVY DUTY VEHICLES.—The Secretary shall issue 3 full credits to a fleet or covered person under this title, if the fleet or covered person acquires a heavy duty dedicated vehicle.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.''.

SEC. 705. ALTERNATIVE FUEL INFRASTRUCTURE.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is further amended by adding at the end the following:

''(f) CREDIT FOR INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

''(1) DEFINITIONS.—In this subsection, the term 'qualifying infrastructure' means—

''(A) equipment required to refuel or recharge alternative fueled vehicles;

''(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

''(C) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

''(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

''(3) AMOUNT.—For the purposes of credits under this subsection—

''(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or equivalent expenditure, as determined by the Secretary; and

''(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.''.

SEC. 706. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c) is amended by striking ''may'' and inserting ''shall''.

SEC. 707. REVIEW OF ALTERNATIVE FUEL PROGRAMS.

(a) IN GENERAL.—Not later than 1 year 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. 13211 et seq.) have had on the development of alternative fueled vehicle technology, its availability in the market, and the cost of light duty motor vehicles that are alternative fueled vehicles.

(b) TOPICS.—As part of such study, the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the amount, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the amount of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the cost of compliance with vehicle acquisition requirements by fleets or covered persons; and

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons.

(c) REPORT.—Upon completion of the study, the Secretary shall submit to the Congress a report that describes the results of the study conducted under this section 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.). Such study shall be updated on a regular basis as deemed necessary by the Secretary.

SEC. 708. HIGH OCCUPANCY VEHICLE EXCEPTION.

Notwithstanding section 102(a)(1) of title 23, United States Code, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if such vehicle is a dedicated vehicle (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)).

SEC. 709. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) ALTERNATIVE COMPLIANCE.—Title V of the Energy Policy Act of 1992 is amended by adding at the end the following:

''SEC. 515. ALTERNATIVE COMPLIANCE.

''(a) APPLICATION FOR WAIVER.—Any covered person subject to the requirements of section 501 and any State subject to the requirement of section 507(o) may petition the Secretary for a waiver of the applicable requirements of section 501 or 507(o).

''(b) GRANT OF WAIVER.—The Secretary may grant a waiver of the requirements of section 501 or 507(o) upon a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered person—

''(1) will achieve a reduction in its annual consumption of petroleum fuels equal to the reduction in consumption of petroleum that would result from compliance with section 501 or 507(o); and

''(2) is in compliance with all applicable vehicle emission standards established by the Administrator under the Clean Air Act.

''(c) REVOCATION OF WAIVER.—The Secretary shall revoke any waiver granted under this section if the State or covered person fails to comply with the requirements of subsection (b).''.

(b) CREDIT FOR HYBRID VEHICLES, DEDICATED ALTERNATIVE FUEL VEHICLES, AND INFRASTRUCTURE.—Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13258) (as amended by section 705) is amended by adding at the end the following:

''(r) CREDITS FOR NEW QUALIFIED HYBRID MOTOR VEHICLES.—

''(1) DEFINITIONS.—In this subsection:

''(A) 2000 MODEL YEAR CITY FUEL EFFICIENCY.—The term '2000 model year city fuel efficiency', with respect to a motor vehicle, means fuel efficiency determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

''If vehicle inertia weight class is:	**The 2000 model year city fuel efficiency is:**
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 to 8,500 lbs	11.1 mpg.

''(ii) In the case of a light truck:

''If vehicle inertia weight class is:	**The 2000 model year city fuel efficiency is:**
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.0 mpg.

''(B) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(C) ENERGY STORAGE DEVICE.—The term 'energy storage device' means an onboard rechargeable energy storage system or similar storage device.

''(D) FUEL EFFICIENCY.—The term 'fuel efficiency' means the percentage increased fuel efficiency specified in table 1 in paragraph (2)(C) over the average 2000 model year city fuel efficiency of vehicles in the same weight class.

''(E) MAXIMUM AVAILABLE POWER.—The term 'maximum available power', with respect to a new qualified hybrid motor vehicle that is a passenger vehicle or light truck, means the quotient obtained by dividing—

''(i) the maximum power available from the electrical storage device of the new qualified hybrid motor vehicle, during a standard 10-second pulse power or equivalent test; by

''(ii) the sum of—

''(I) the maximum power described in clause (i); and

''(II) the net power of the internal combustion or heat engine, as determined in accordance with standards established by the Society of Automobile Engineers.

''(F) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given the term in section 216 of the Clean Air Act (42 U.S.C. 7550).

''(G) NEW QUALIFIED HYBRID MOTOR VEHICLE.—The term 'new qualified hybrid motor vehicle' means a motor vehicle that—

''(i) draws propulsion energy from both—

''(I) an internal combustion engine (or heat engine that uses combustible fuel); and

''(II) an energy storage device;

''(ii) in the case of a passenger automobile or light truck—

''(I) in the case of a 2001 or later model vehicle, receives a certificate of conformity under the Clean Air Act (42 U.S.C. 7401 et seq.) and produces emissions at a level that is at or below the standard established by a qualifying California standard described in section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

''(II) in the case of a 2004 or later model vehicle, is certified by the Administrator as producing emissions at a level that is at or below the level established for Bin 5 vehicles in the Tier 2 regulations promulgated by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

''(iii) employs a vehicle braking system that recovers waste energy to charge an energy storage device.

''(H) VEHICLE INERTIA WEIGHT CLASS.—The term 'vehicle inertia weight class' has the meaning given the term in regulations promulgated by the Administrator for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(2) ALLOCATION.—

''(A) IN GENERAL.—The Secretary shall allocate a partial credit to a fleet or covered person under this title if the fleet or person acquires a new qualified hybrid motor vehicle that is eligible to receive a credit under each of the tables in subparagraph (C).

''(B) AMOUNT.—The amount of a partial credit allocated under subparagraph (A) for a vehicle described in that subparagraph shall be equal to the sum of—

''(i) the partial credits determined under table 1 in subparagraph (C); and

''(ii) the partial credits determined under table 2 in subparagraph (C).

''(C) TABLES.—The tables referred to in subparagraphs (A) and (B) are as follows:

''Table 1

''Partial credit for increased fuel efficiency:	**Amount of credit:**
At least 125% but less than 150% of 2000 model year city fuel efficiency.	0.14

"Partial credit for increased fuel efficiency:	Amount of credit:
At least 150% but less than 175% of 2000 model year city fuel efficiency.	0.21
At least 175% but less than 200% of 2000 model year city fuel efficiency.	0.28
At least 200% but less than 225% of 2000 model year city fuel efficiency.	0.35
At least 225% but less than 250% of 2000 model year city fuel efficiency.	0.50.

"Table 2

"Partial credit for 'Maximum Available Power':	Amount of credit:
At least 5% but less than 10%	0.125
At least 10% but less than 20%	0.250
At least 20% but less than 30%	0.375
At least 30% or more	0.500.

''(D) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the qualified hybrid motor vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

''(3) REGULATIONS.—The Secretary shall promulgate regulations under which any Federal fleet that acquires a new qualified hybrid motor vehicle will receive partial credits determined under the tables contained in paragraph (2)(C) for purposes of meeting the requirements of section 303.

''(s) CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARDS USE OF DEDICATED VEHICLES IN NONCOVERED FLEETS.—

''(1) DEFINITIONS.—In this subsection:

''(A) DEDICATED VEHICLE.—The term 'dedicated vehicle' includes—

''(i) a light, medium, or heavy duty vehicle; and

''(ii) a neighborhood electric vehicle.

''(B) MEDIUM OR HEAVY DUTY VEHICLE.—The term 'medium or heavy duty vehicle' includes a vehicle that—

''(i) operates solely on alternative fuel; and

''(ii)(I) in the case of a medium duty vehicle, has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds; or

''(II) in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds.

''(C) SUBSTANTIAL CONTRIBUTION.—The term 'substantial contribution' (equal to 1 full credit) means not less than $15,000 in cash or in kind services, as determined by the Secretary.

''(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title if the fleet or person makes a substantial contribution toward the acquisition and use of dedicated vehicles by a person that owns, operates, leases, or otherwise controls a fleet that is not covered by this title.

''(3) MULTIPLE CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.—The Secretary shall issue 2 full credits to a fleet or covered person under this title if the fleet or person acquires a medium or heavy duty dedicated vehicle.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

''(5) LIMITATION.—Per vehicle credits acquired under this subsection shall not exceed the per vehicle credits allowed under this section to a fleet for qualifying vehicles in each of the weight categories (light, medium, or heavy duty).

''(t) CREDIT FOR SUBSTANTIAL INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

''(1) DEFINITIONS.—In this section, the term 'qualifying infrastructure' means—

''(A) equipment required to refuel or recharge alternative fueled vehicles;

''(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

''(C) training programs, educational materials, or other activities necessary to provide information regarding the operation, maintenance, or benefits associated with alternative fueled vehicles; and

''(D) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

''(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

''(3) AMOUNT.—For the purposes of credits under this subsection—

''(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or in kind services, as determined by the Secretary; and

''(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.''.

(c) LEASE CONDENSATE FUELS.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (2), by inserting ''mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate;'' after ''liquified petroleum gas;'';

(2) in paragraph (15), by inserting ''mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate;'' after ''liquified petroleum gas;''; and

(3) by adding at the end the following:

''(16) the term 'lease condensate' means a mixture, primarily of pentanes and heavier hydrocarbons, which is recovered as a liquid from natural gas in lease separation facilities.''.

Subtitle B—Automobile Fuel Economy

SEC. 711. AUTOMOBILE FUEL ECONOMY STANDARDS.

(a) TITLE 49 AMENDMENT.—Section 32902(f) of title 49, United States Code, is amended to read as follows:

''(f) CONSIDERATIONS.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

''(1) technological feasibility;

''(2) economic practicability;

''(3) the effect of other motor vehicle standards of the Government on fuel economy;

''(4) the need of the United States to conserve energy;

''(5) the effects of fuel economy standards on motor vehicle and passenger safety; and

''(6) the effects of compliance with average fuel economy standards on levels of employment in the United States.''.

(b) CLARIFICATION OF AUTHORITY.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: ''or such other number as the Secretary prescribes under subsection (c)''.

(c) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the effects of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2008.

SEC. 712. DUAL-FUELED AUTOMOBILES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

(1) in subsections (b) and (d), by striking ''1993–2004'' and inserting ''1993–2008'';

(2) in subsection (f), by striking ''2001'' and inserting ''2005'';

(3) in subsection (f)(1), by striking ''2004'' and inserting ''2008''; and

(4) in subsection (g), by striking ''September 30, 2000'' and inserting ''September 30, 2004''.

(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 1993–2008''; and

(2) in subparagraph (B), by striking ''the model years 2005–2008'' and inserting ''model years 2009–2012''.

SEC. 713. FEDERAL FLEET FUEL ECONOMY.

Section 32917 of title 49, United States Code, is amended to read as follows:

''§ 32917. Standards for executive agency automobiles

''(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

''(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

''(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

''(d) DEFINITIONS.—In this section:

''(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

''(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

''(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.''.

SEC. 714. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall establish a cost-shared, public-private research partnership to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation. Such partnership shall involve the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $25,000,000 for fiscal year 2004, $35,000,000 for fiscal year 2005, and $50,000,000 for fiscal year 2006.

SEC. 715. REDUCTION OF ENGINE IDLING IN HEAVY-DUTY VEHICLES.

(a) IDENTIFICATION.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall commence a study to analyze the potential fuel savings and emissions reductions resulting from use of idling reduction technologies as they are applied to heavy-duty vehicles. Upon completion of the study, the Secretary of Energy shall, by rule, certify those idling reduction technologies with the greatest economic or technical feasibility and the greatest potential for fuel savings and emissions reductions, and publish a list of such certified technologies in the Federal Register.

(b) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of Title 23, United States Code, is amended by adding at the end the following: ''In order to promote reduction of fuel use and emissions due to engine idling, the maximum gross vehicle weight limit and the axle weight limit for any motor vehicle equipped with an idling reduction technology certified by the U.S. Department of Energy will be increased by an amount necessary to compensate for the additional weight of the idling reduction system, provided that the weight increase shall be no greater than 400 pounds.''

(c) DEFINITIONS.—For the purposes of this section:

(1) The term ''idling reduction technology'' means a device or system of devices utilized to reduce long-duration idling of a vehicle.

(2) The term ''heavy-duty vehicle'' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds and is powered by a diesel engine.

(3) The term ''long-duration idling'' means the operation of a main drive engine, for a period greater than 30 consecutive minutes, where the main drive engine is not engaged in gear. Such term does not apply to routine stoppages associated with traffic movement or congestion.

SEC. 716. PROVISION NOT TO TAKE EFFECT.

Section 711 shall not take effect.

SEC. 717. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

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

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

''(1) Technological feasibility.

''(2) Economic practicability.

''(3) The effect of other motor vehicle standards of the Government on fuel economy.

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

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

''(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.

''(7) The effects of increased fuel economy on air quality.

''(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.

''(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.

''(10) The cost and lead time necessary for the introduction of the necessary new technologies.

''(11) The potential for advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.

''(12) The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with the average fuel economy standards adversely affects the availability of resources for the development of advanced technology for the propulsion of motor vehicles.

''(13) The report of the National Research Council that is entitled 'Effectiveness and Impact of Corporate Average Fuel Economy Standards', issued in January 2002.''.

SEC. 718. INCREASED FUEL ECONOMY STANDARDS.

(a) NEW REGULATIONS REQUIRED.—

(1) NON-PASSENGER AUTOMOBILES.—

(A) REQUIREMENT FOR NEW REGULATIONS.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for non-passenger automobiles. The regulations shall be determined on the basis of the maximum feasible average fuel economy levels for the non-passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section. The new regulations under this paragraph shall apply for model years after the 2007 model year, subject to subsection (b).

(B) TIME FOR ISSUING REGULATIONS.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than April 1, 2006.

(2) PASSENGER AUTOMOBILES.—

(A) REQUIREMENT FOR NEW REGULATIONS.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section.

(B) TIME FOR ISSUING REGULATIONS.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than 2½ years after the date of the enactment of this Act.

(b) PHASED INCREASES.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.

(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: ''or such other number as the Secretary prescribes under subsection (c)''.

(d) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the effects of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2008 for carrying out this section and for administering the regulations issued pursuant to this section.

SEC. 719. EXPEDITED PROCEDURES FOR CONGRESSIONAL INCREASE IN FUEL ECONOMY STANDARDS.

(a) CONDITION FOR APPLICABILITY.—If the Secretary of Transportation fails to issue final regulations with respect to non-passenger automobiles under section 719 or fails to issue final regulations with respect to passenger automobiles under such section, on or before the date by which such final regulations are required by such section to be issued, respectively, then this section shall apply with respect to a bill described in subsection (b).

(b) BILL.—A bill referred to in this subsection is a bill that satisfies the following requirements:

(1) INTRODUCTION.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).

(2) TITLE.—The title of the bill is as follows: ''A bill to establish new average fuel economy standards for certain motor vehicles.''.

(3) TEXT.—The bill provides after the enacting clause only the text specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:

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

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

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

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

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

'''(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year ___ shall be ___ miles per gallon.''', the first blank space being filled in with the number of a year and the second blank space being filled in with a number.

(C) SUBSTITUTE TEXT.—Any text substituted by an amendment that is in order under subsection (c)(3).

(c) EXPEDITED PROCEDURES.—A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98–473; 98 Stat. 1936), with the following exceptions:

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

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

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

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

(3) AMENDMENTS.—

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

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

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

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

(C) DEBATE, ET CETERA.—Subparagraph (B) of section 8066(c)(5) of the Department of Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed under this paragraph in the same manner as such subparagraph (B) applies to debatable motions.

Subtitle C—Advanced Clean Vehicles

SEC. 731. HYBRID VEHICLES RESEARCH AND DEVELOPMENT.

(a) RECHARGEABLE ENERGY STORAGE SYSTEMS AND OTHER TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development 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.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2004, 2005, and 2006 in the amount $50,000,000 for research and development activities under this section.

SEC. 732. DIESEL FUELED VEHICLES RESEARCH AND DEVELOPMENT.

(a) DIESEL COMBUSTION AND AFTER TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.

(b) GOALS.—The Secretary shall carry out subsection (a) with a view to achieving the following goals:

(1) COMPLIANCE WITH CERTAIN EMISSION STANDARDS BY 2010.—Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) TIER-2 EMISSION STANDARDS.—The tier 2 emission standards.

(B) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The heavy-duty emission standards of 2007.

(2) POST-2010 HIGHLY EFFICIENT TECHNOLOGIES.—Developing the next generation of low emissions, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2004, 2005, and 2006 in the amount of $75,000,000 for research and development of advanced combustion engines and advanced fuels.

SEC. 733. PROCUREMENT OF ALTERNATIVE FUELED PASSENGER AUTOMOBILES.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only alternative fueled vehicles are procured by or for each agency fleet of passenger automobiles that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(b) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of alternative fueled vehicles in subsection (a) to—

(1) the procurement for such agency of any vehicles described in subparagraphs (A) through (F) of section 303(b)(3) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(3)); or

(2) a procurement of vehicles for such agency if the procurement of alternative fueled vehicles cannot meet the requirements of the agency for vehicles due to insufficient availability of the alternative fuel used to power such vehicles.

(c) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of alternative fueled vehicles in fiscal year 2005 and subsequent fiscal years.

SEC. 734. PROCUREMENT OF HYBRID LIGHT DUTY TRUCKS.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—

(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—

(A) to meet specific requirements of the agency for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government;

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles; or

(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the costs of comparable nonhybrid vehicles by a factor that is significantly higher than the difference between—

(i) the real cost of the hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and

(ii) the costs of the comparable nonhybrid vehicles to retail purchasers.

(3) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

(b) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055; 10 U.S.C. 2302 note).

SEC. 735. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE FUELED VEHICLE.—The term ''alternative fueled vehicle'' means—

(A) an alternative fueled vehicle, as defined in section 301(3) of the Energy Policy Act of 1992 (42 U.S.C. 13211(3));

(B) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) biodiesel, as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

(C) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) bioderived hydrocarbons (including aliphatic compounds) produced from agricultural and animal waste.

(2) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The term ''heavy-duty emission standards of 2007'' means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on January 18, 2001, under section 202 of the Clean Air Act to apply to heavy-duty vehicles of model years beginning with the 2007 vehicle model year.

(3) HYBRID VEHICLE.—The term ''hybrid vehicle'' means—

(A) a motor vehicle that draws propulsion energy from on board sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(4) MOTOR VEHICLE.—The term ''motor vehicle'' means any vehicle that is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and that has at least four wheels.

(5) TIER 2 EMISSION STANDARDS DEFINED.—The term ''tier 2 emission standards'' means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under section 202 of the Clean Air Act (42 U.S.C. 7521) to apply to passenger automobiles, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

(6) TERMS DEFINED IN EPA REGULATIONS.—The terms ''passenger automobile'' and ''light truck'' 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.).

TITLE VIII—HYDROGEN

Subtitle A—Basic Research Programs

SEC. 801. SHORT TITLE.

This subtitle may be cited as the ''George E. Brown, Jr. and Robert S. Walker Hydrogen Future Act of 2003''.

SEC. 802. MATSUNAGA ACT AMENDMENT.

The Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.) is amended by striking sections 102 through 109 and inserting the following:

''SEC. 102. DEFINITIONS.

''In this Act—

''(1) the term 'advisory committee' means the Hydrogen and Fuel Cell Technical Advisory Committee established under section 107;

''(2) the term 'Department' means the Department of Energy;

''(3) the term 'fuel cell' means a device that directly converts the chemical energy of a fuel into electricity by an electrochemical process;

''(4) the term 'infrastructure' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen; and

''(5) the term 'Secretary' means the Secretary of Energy.

"SEC. 103. HYDROGEN RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary shall conduct a research and development program on technologies related to the production, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

''(b) GOAL.—The goal of such program shall be to enable the safe, economic, and environmentally sound use of hydrogen energy, fuel cells, and related infrastructure for transportation, commercial, industrial, residential, and electric power generation applications.

''(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on critical technical issues including, but not limited to—

''(1) the production of hydrogen from diverse energy sources, with emphasis on cost-effective production from renewable energy sources;

''(2) the delivery of hydrogen, including safe delivery in fueling stations and use of existing hydrogen pipelines;

''(3) the storage of hydrogen, including storage of hydrogen in surface transportation;

''(4) fuel cell technologies for transportation, stationary and portable applications, with emphasis on cost-reduction of fuel cell stacks; and

''(5) the use of hydrogen energy and fuel cells, including use in—

''(A) isolated villages, islands, and areas in which other energy sources are not available or are very expensive; and

''(B) foreign markets, particularly where an energy infrastructure is not well developed.

''(d) CODES AND STANDARDS.—The Secretary shall facilitate the development of domestic and international codes and standards and seek to resolve other critical regulatory and technical barriers preventing the introduction of hydrogen energy and fuel cells into the marketplace.

''(e) SOLICITATION.—The Secretary shall carry out the research and development activities authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

''(f) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of proposed research and development projects. The Secretary may reduce or eliminate the cost sharing requirement—

''(1) if the Secretary determines that the research and development is of a basic or fundamental nature, or

''(2) for technical analyses, outreach activities, and educational programs that the Secretary does not expect to result in a marketable product.

"SEC. 104. DEMONSTRATION PROGRAMS.

''(a) REQUIREMENT.—In conjunction with activities conducted under section 103, the Secretary shall conduct demonstrations of hydrogen energy and fuel cell technologies in order to evaluate the commercial potential of such technologies.

''(b) SOLICITATION.—The Secretary shall carry out the demonstrations authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

''(c) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

"SEC. 105. TECHNOLOGY TRANSFER.

''The Secretary shall conduct programs to—

''(1) transfer critical hydrogen energy and fuel cell technologies to the private sector in order to promote wider understanding of such technologies and wider use of research progress under this Act;

''(2) accelerate wider application of hydrogen energy and fuel cell technologies in foreign countries in order to increase the global market for the technologies and foster global development without harmful environmental effects;

''(3) foster the exchange of generic, nonproprietary information and technology developed pursuant to this Act, among industry, academia, and the Federal agencies; and

''(4) inventory and assess the technical and commercial viability of technologies related to production, distribution, storage, and use of hydrogen energy and fuel cells.

"SEC. 106. COORDINATION AND CONSULTATION.

''The Secretary shall have overall management responsibility for carrying out programs under this Act. In carrying out such programs, the Secretary—

''(1) shall establish a central point for the coordination of all hydrogen energy and fuel cell research, development, and demonstration activities of the Department;

''(2) in carrying out the Secretary's authorities pursuant to this Act, shall consult with other Federal agencies as appropriate, and may obtain the assistance of any Federal agency, on a reimbursable basis or otherwise and with the consent of such agency; and

''(3) shall attempt to ensure that activities under this Act do not unnecessarily duplicate any available research and development results or displace or compete with privately funded hydrogen and fuel cell energy activities.

"SEC. 107. ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—There is hereby established the Hydrogen and Fuel Cell Technical Advisory Committee, to advise the Secretary on the programs under this Act.

''(b) MEMBERSHIP.—The advisory committee shall be comprised of not fewer than 12 nor more than 25 members appointed by the Secretary based on their technical and other qualifications from domestic industry, automakers, universities, professional societies, Federal laboratories, financial institutions, and environmental and other organizations as the Secretary deems appropriate. The advisory committee shall have a chairperson, who shall be elected by the members from among their number.

''(c) TERMS.—Members of the advisory committee shall be appointed for terms of 3 years, with each term to begin not later than 3 months after the date of enactment of the Energy Policy Act of 2003, except that one-third of the members first appointed shall serve for 1 year, and one-third of the members first appointed shall serve for 2 years, as designated by the Secretary at the time of appointment.

''(d) REVIEW.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

''(1) implementation and conduct of programs under this Act;

''(2) economic, technological, and environmental consequences of the deployment of technologies related to production, distribution, storage, and use of hydrogen energy, and fuel cells;

''(3) means for resolving barriers to implementing hydrogen and fuel cell technologies; and

''(4) the coordination plan and any updates thereto prepared by the Secretary pursuant to section 108.

''(e) RESPONSE.—The Secretary shall consider any recommendations made by the advisory committee, and shall provide a response to the advisory committee within 30 days after receipt of such recommendations. Such response shall either describe the implementation of the advisory committee's recommendations or provide an explanation of the reasons that any such recommendations will not be implemented.

''(f) SUPPORT.—The Secretary shall provide such staff, funds and other support as may be necessary to enable the advisory committee to carry out its functions. In carrying out activities pursuant to this section, the advisory committee may also obtain the assistance of any Federal agency, on a reimbursable basis or otherwise and with the consent of such agency.

"SEC. 108. COORDINATION PLAN.

''(a) PLAN.—The Secretary, in consultation with other Federal agencies, shall prepare and maintain on an ongoing basis a comprehensive plan for activities under this Act.

''(b) DEVELOPMENT.—In developing such plan, the Secretary shall—

''(1) consider the guidance of the National Hydrogen Energy Roadmap published by the Department in November 2002 and any updates thereto;

''(2) consult with the advisory committee; and

''(3) consult with interested parties from domestic industry, automakers, universities, professional societies, Federal laboratories, financial institutions, and environmental and other organizations as the Secretary deems appropriate.

''(c) CONTENTS.—At a minimum, the plan shall provide—

''(1) an assessment of the effectiveness of the programs authorized under this Act, including a summary of recommendations of the advisory committee for improvements in such programs;

''(2) a description of proposed research, development, and demonstration activities planned by the Department for the next five years;

''(3) a description of the role Federal laboratories, institutions of higher education, small businesses, and other private sector firms are expected to play in such programs;

''(4) cost and performance milestones that will be used to evaluate the programs for the next five years;

''(5) any significant technical, regulatory, and other hurdles that stand in the way of achieving such cost and performance milestones, and how the programs will address those hurdles; and

(6) to the extent practicable, an analysis of Federal, State, local, and private sector hydrogen research, development, and demonstration activities to identify areas for increased intergovernmental and private-public sector collaboration.

''(d) REPORT.—Not later than January 1, 2005, and biennially thereafter, the Secretary shall transmit to Congress the comprehensive plan developed for the programs authorized under this Act, or any updates thereto.

"SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out the purposes of this Act—

''(1) such sums as may be necessary for fiscal years 1992 through 2003;

''(2) $105,000,000 for fiscal year 2004;

''(3) $150,000,000 for fiscal year 2005;

''(4) $175,000,000 for fiscal year 2006;

''(5) $200,000,000 for fiscal year 2007; and

''(6) $225,000,000 for fiscal year 2008.''.

SEC. 803. HYDROGEN TRANSPORTATION AND FUEL INITIATIVE.

(a) VEHICLE TECHNOLOGIES.—The Secretary shall carry out a research, development, demonstration, and commercial application program on advanced hydrogen-powered vehicle technologies. Such program shall address—

(1) engine and emission control systems;

(2) energy storage, electric propulsion, and hybrid systems;

(3) automotive materials;

(4) hydrogen-carrier fuels; and

(5) other advanced vehicle technologies.

(b) HYDROGEN FUEL INITIATIVE.—In coordination with the program authorized in subsection (a), the Secretary of Energy, in partnership with the private sector, shall conduct a research, development, demonstration and commercial application program designed to enable the rapid and coordinated introduction of hydrogen-fueled vehicles and associated infrastructure into commerce. Such program shall address—

(1) production of hydrogen from diverse energy resources, including—

(A) renewable energy resources;

(B) fossil fuels, in conjunction with carbon capture and sequestration;

(C) hydrogen-carrier fuels; and

(D) nuclear energy;

(2) delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) safe, convenient, and economic refueling of vehicles, either at central refueling stations or through distributed on-site generation;

(3) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid or solid forms at refueling facilities or on-board vehicles;

(4) development of advanced vehicle technologies, such as efficient fuel cells and direct hydrogen combustion engines, and related component technologies such as advanced materials and control systems; and

(5) development of necessary codes, standards, and safety practices to accompany the production, distribution, storage and use of hydrogen or hydrogen-carrier fuels in transportation.

(c) MATSUNAGA ACT.—In carrying out programs and projects under subsections (a) and (b), the Secretary shall ensure that such programs and projects are consistent with, and do not unnecessarily duplicate, activities carried out under the programs authorized under the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.).

(d) ADVISORY COMMITTEE.—The Hydrogen and Fuel Cell Technical Advisory Committee authorized under section 107 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12408), as amended in this title, shall also advise the Secretary on the programs and activities carried out under this section.

(e) SOLICITATION.—The Secretary shall carry out the programs authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

(f) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary—

(1) for activities pursuant to subsection (a), to remain available until expended—

(A) $100,000,000 for each of fiscal years 2004 and 2005;

(B) $110,000,000 for each of fiscal years 2006 and 2007; and

(C) $120,000,000 for fiscal year 2008; and

(2) for activities pursuant to subsection (b), to remain available until expended—

(A) $125,000,000 for fiscal year 2004;

(B) $150,000,000 for fiscal year 2005;

(C) $175,000,000 for fiscal year 2006; and

(D) $200,000,000 for each of fiscal years 2007 and 2008.

SEC. 804. INTERAGENCY TASK FORCE AND COORDINATION PLAN.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish an interagency task force to coordinate Federal hydrogen and fuel cell energy activities.

(b) COMPOSITION.—The task force shall be chaired by a designee of the Secretary, and shall include representatives of—

(1) the Office of Science and Technology Policy;

(2) the Department of Transportation;

(3) the Department of Defense;

(4) the Department of Commerce (including the National Institute for Standards and Technology);

(5) the Environmental Protection Agency;

(6) the National Aeronautics and Space Administration;

(7) the Department of State; and

(8) other Federal agencies as the Director considers appropriate.

(c) COORDINATION PLAN.—The task force shall prepare a comprehensive coordination plan for Federal hydrogen and fuel cell energy activities, which shall include a summary of such activities.

(d) REPORT.—Not later than one year after it is established, the task force shall report to Congress on the coordination plan in subsection (c) and on the interagency coordination of Federal hydrogen and fuel cell energy activities.

SEC. 805. REVIEW BY THE NATIONAL ACADEMIES.

Not later than two years after the date of enactment of this Act, and every four years thereafter, the Secretary shall enter into a contract with the National Academies. Such contract shall require the National Academies to perform a review of the progress made through Federal hydrogen and fuel cell energy programs and activities, including the need for modified or additional programs, and to report to the Congress on the results of such review. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the requirements of this section.

Subtitle B—Demonstration Programs

SEC. 811. DEFINITIONS.

For the purposes of this subtitle and subtitle C—

(1) the term ''fuel cell'' means a device that directly converts the chemical energy of a fuel into electricity by an electrochemical process;

(2) the term ''hydrogen-carrier fuel'' means any hydrocarbon fuel that is capable of being thermochemically processed or otherwise reformed to produce hydrogen;

(3) the term ''infrastructure'' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen or hydrogen-carrier fuels;

(4) the term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

(5) the term ''Secretary'' means the Secretary of Energy.

SEC. 812. HYDROGEN VEHICLE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program for demonstration and commercial application of hydrogen-powered vehicles and associated hydrogen fueling infrastructure in a variety of transportation-related applications, including—

(1) fuel cell vehicles in light-duty vehicle fleets;

(2) heavy-duty fuel cell on-road and off-road vehicles, including mass transit buses;

(3) use of hydrogen-powered vehicles and hydrogen fueling infrastructure (including multiple hydrogen refueling stations) along major transportation routes or in entire regions; and

(4) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use for transportation.

(b) ELIGIBILITY.—Federal, state, tribal, and local governments, academic and other non-profit organizations, private entities, and consortia of these entities shall be eligible for these projects.

(c) SELECTION.—In selecting projects under this section, the Secretary shall—

(1) consult with Federal, State, local and private fleet managers to identify potential projects where hydrogen-powered vehicles may be placed into service;

(2) identify not less than 10 sites at which to carry out projects under this program, 2 of which must be based at Federal facilities; and

(3) select projects based on the following factors—

(A) geographic diversity;

(B) a diverse set of operating environments, duty cycles, and likely weather conditions;

(C) the interest and capability of the participating agencies, entities, or fleets;

(D) the availability and appropriateness of potential sites for refueling infrastructure and for maintenance of the vehicle fleet;

(E) the existence of traffic congestion in the area expected to be served by the hydrogen-powered vehicles;

(F) proximity to non-attainment areas as defined in section 171 of the Clean Air Act (42 U.S.C. 7501); and

(G) such other criteria as the Secretary determines to be appropriate in order to carry out the purposes of the program.

(d) INFRASTRUCTURE.—In funding projects under this section, the Secretary shall also support the installation of refueling infrastructure at sites necessary for success of the project, giving preference to those infrastructure projects that include co-production of both—

(1) hydrogen for use in transportation; and

(2) electricity that can be consumed on site.

(e) OPERATION AND MAINTENANCE PERIOD.—Vehicles purchased for projects under this section shall be operated and maintained by the participating agencies or entities in regular duty cycles for a period of not less than 12 months.

(f) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in—

(1) the installation, operation, and maintenance of fueling infrastructure;

(2) the operation and maintenance of fuel cell vehicles; and

(3) data collection necessary to monitor project performance.

(g) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(h) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are

authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 813. STATIONARY FUEL CELL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program for demonstration and commercial application of hydrogen fuel cells in stationary applications, including—

(1) fuel cells for use in residential and commercial buildings;

(2) portable fuel cells, including auxiliary power units in trucks;

(3) small form and micro fuel cells of 20 watts or less;

(4) distributed generation systems with fuel cells using renewable energy; and

(5) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use.

(b) COMPETITIVE EVALUATION.—Proposals submitted in response to solicitations issued pursuant to this section shall be evaluated on a competitive basis using peer review. The Secretary is not required to make an award under this section in the absence of a meritorious proposal.

(c) PREFERENCE.—The Secretary shall give preference, in making an award under this section, to proposals that—

(1) are submitted jointly from consortia that include two or more participants from institutions of higher education, industry, State, tribal, or local governments, and Federal laboratories; and

(2) reflect proven experience and capability with technologies relevant to the projects proposed.

(d) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in the installation, operation, and maintenance of fuel cells and the collection of data to monitor project performance.

(e) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 814. HYDROGEN DEMONSTRATION PROGRAMS IN NATIONAL PARKS.

(a) STUDY.—Not later than 1 year after the date of enactment of this section, the Secretary of the Interior and the Secretary of Energy shall jointly study and report to Congress on—

(1) the energy needs and uses at National Parks; and

(2) the potential for fuel cell and other hydrogen-based technologies to meet such energy needs in—

(A) stationary applications, including power generation, combined heat and power for buildings and campsites, and standby and backup power systems; and

(B) transportation-related applications, including support vehicles, passenger vehicles and heavy-duty trucks and buses.

(b) PILOT PROJECTS.—Based on the results of the study conducted under subsection (a), the Secretary of the Interior shall fund not fewer than 3 pilot projects in national parks to provide for demonstration of fuel cells or other hydrogen-based technologies in those applications where the greatest potential for such use in National Parks has been identified. Such pilot projects shall be geographically distributed throughout the United States.

(c) DEFINITION.—For the purpose of this section, the term ''National Parks'' means those areas of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $1,000,000 for fiscal year 2004, and $15,000,000 for fiscal year 2005, to remain available until expended.

SEC. 815. INTERNATIONAL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the U.S. Agency for International Development, shall conduct demonstrations of fuel cells and associated hydrogen fueling infrastructure in countries other than the United States, particularly in areas where an energy infrastructure is not already well developed.

(b) ELIGIBLE TECHNOLOGIES.—The program may demonstrate—

(1) fuel cell vehicles in light-duty vehicle fleets;

(2) heavy-duty fuel cell on-road and off-road vehicles;

(3) stationary fuel cells in residential and commercial buildings; or

(4) portable fuel cells, including auxiliary power units in trucks.

(c) PARTICIPANTS.—

(1) ELIGIBILITY.—Foreign nations, non-profit organizations, and private companies shall be eligible for these pilot projects.

(2) COOPERATION.—Eligible entities may perform the projects in cooperation with United States non-profit organizations and private companies.

(3) COST-SHARING.—The Secretary may require a commitment from participating private companies and from participating foreign countries.

(d) AUTHORIZATION OF APPROPRIATIONS.—For activities conducted under this section, there are authorized to be appropriated to the Secretary $25,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 816. TRIBAL STATIONARY HYBRID POWER DEMONSTRATION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with Indian tribes, shall develop and transmit to Congress a strategy for a demonstration and commercial application program to develop hybrid distributed power systems on Indian lands that combine—

(1) one renewable electric power generating technology of 2 megawatts or less located near the site of electric energy use; and

(2) fuel cell power generation suitable for use in distributed power systems.

(b) DEFINITION.—For the purposes of this section, the terms ''Indian tribe'' and ''Indian land'' have the meaning given such terms under Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.), as amended by this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—For activities under this section, there are authorized to be appropriated to the Secretary of Energy $1,000,000 for fiscal year 2005, and $5,000,000 for each of fiscal years 2006 through 2008.

SEC. 817. DISTRIBUTED GENERATION PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall support a demonstration program to develop, deploy, and commercialize distributed generation systems to significantly reduce the cost of producing hydrogen from renewable energy for use in fuel cells. Such program shall provide the necessary infrastructure to test these distributed generation technologies at pilot scales in a real-world environment.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy, to remain available until expended, for the purposes of carrying out this section—

(1) $10,000,000 for fiscal year 2004;

(2) $15,000,000 for fiscal year 2005; and

(3) $20,000,000 for each of fiscal years 2006 through 2008.

Subtitle C—Federal Programs

SEC. 821. PUBLIC EDUCATION AND TRAINING.

(a) EDUCATION.—The Secretary shall conduct a public education program designed to increase public interest in and acceptance of hydrogen energy and fuel cell technologies.

(b) TRAINING.—The Secretary shall conduct a program to promote university-based training in critical skills for research in, production of, and use of hydrogen energy and fuel cell technologies. Such program may include research fellowships at institutions of higher education, centers of excellence in critical technologies, internships in industry, and such other measures as the Secretary deems appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—For activities pursuant to this section, there are authorized to be appropriated to the Secretary $7,000,000 for each of fiscal years 2004 through 2008.

SEC. 822. HYDROGEN TRANSITION STRATEGIC PLANNING.

(a) IN GENERAL.—Not later than September 30, 2004, the head of each federal agency with annual outlays of greater than $20,000,000 shall submit to the Director of the Office of Management and Budget and to the Congress a hydrogen transition strategic plan containing a comprehensive assessment of how the transition to a hydrogen-based economy could assist the mission, operation and regulatory program of the agency.

(b) CONTENTS.—At a minimum, each plan shall contain—

(1) a description of areas within the agency's control where using hydrogen and/or fuel cells could benefit the operation of the agency, assist in the implementation of its regulatory functions or enhance the agency's mission; and

(2) a description of any agency management practices, procurement policies, regulations, policies, or guidelines that may inhibit the agency's transition to use of fuel cells and hydrogen as an energy source.

(c) DURATION AND REVISION.—The strategic plan shall cover a period of not less than the five years following the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

SEC. 823. MINIMUM FEDERAL FLEET REQUIREMENT.

(a) Section 303(b) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)) is amended by adding at the end the following:

''(4) HYDROGEN VEHICLES.—

''(A) Of the number of vehicles acquired under paragraph (1)(D) by a Federal fleet of 100 or more vehicles, not less than—

''(i) 5 percent in fiscal years 2006 and 2007;

''(ii) 10 percent in fiscal years 2008 and 2009;

''(iii) 15 percent in fiscal years 2010 and 2011; and

''(iv) 20 percent in fiscal years 2012 and thereafter,

shall be hydrogen-powered vehicles that meet standards for performance, reliability, cost, and maintenance established by the Secretary.

''(B) The Secretary may establish a lesser percentage, or waive the requirement under subparagraph (A) for any fiscal year entirely, if hydrogen-powered vehicles meeting the standards set by the Secretary pursuant to subparagraph (A) are not available at a purchase price that is less than 150 percent of the purchase price of other comparable alternative fueled vehicles.

''(C) The Secretary may by rule, delay the implementation of the requirements under subparagraph (A) in the event that the Secretary determines that hydrogen-powered vehicles are not commercially or economically available, or that fuel for such vehicles is not commercially or economically available.

''(D) The Secretary, in consultation with the Administrator of General Services, may for reasons of refueling infrastructure use and cost optimization, elect to allocate the acquisitions necessary to achieve the requirements in subparagraph (A) to certain Federal fleets in lieu of requiring each Federal fleet to achieve the requirements in subparagraph (A).''.

(b) REFUELING.—Section 304 of the Energy Policy Act of 1992 (42 U.S.C. 13213) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in the second sentence of subsection (a), by striking ''If publicly'' and inserting the following:

''(b) COMMERCIAL ARRANGEMENTS.—

''(1) IN GENERAL.—If publicly''; and

(3) in subsection (b) (as designated by paragraph (2)), by adding at the end the following:

''(2) MANDATORY ARRANGEMENTS.—

''(A) IN GENERAL.—In a case in which publicly available fueling facilities are not convenient or accessible to the locations of 2 or more Federal fleets for which hydrogen-powered vehicles are required to be purchased under section 303(b)(4), the Federal agency for which the Federal fleets are maintained (or the Federal agencies for which the Federal fleets are maintained, acting jointly under a memorandum of agreement providing for cost sharing) shall enter into a commercial arrangement as provided in paragraph (1).

''(B) SUNSET.—Subparagraph (A) ceases to be effective at the end of fiscal year 2013.''.

SEC. 824. STATIONARY FUEL CELL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President, acting through the Secretary of Energy, shall seek to ensure that, to the extent economically practicable and technically feasible, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be generated by fuel cells—

(1) not less than 1 percent in fiscal years 2006 through 2008;

(2) not less than 2 percent in fiscal years 2009 and 2010; and

(3) not less than 3 percent in fiscal year 2011 and each fiscal year thereafter.

(b) COMPLIANCE.—In complying with the requirements of subsection (a), Federal agencies are encouraged to—

(1) use innovative purchasing practices;

(2) use fuel cells at the site of electricity usage and in combined heat and power applications; and

(3) use fuel cells in stand alone power functions, such as but not limited to battery power and backup power.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''fuel cells'' means an integrated system comprised of a fuel cell stack assembly and balance of plant components that converts a fuel into electricity using an electrochemical means; and

(2) the term ''electrical energy'' includes on and off grid power, including premium power applications, standby power applications and electricity generation.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $30,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, and $100,000,000 for each of fiscal years 2006 and thereafter.

SEC. 825. DEPARTMENT OF ENERGY STRATEGY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall publish and transmit to Congress a plan identifying critical technologies, enabling strategies and applications, technical targets, and associated timeframes that support the commercialization of hydrogen-fueled fuel cell vehicles.

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 2003''.

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, focused on—

(1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies,

(2) promoting diversity of energy supply,

(3) decreasing the nation's dependence on foreign energy supplies,

(4) improving United States energy security, and

(5) decreasing the environmental impact of energy-related activities.

(b) GOALS.—The Secretary shall publish measurable cost and performance-based goals 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 hydropower;

(4) fossil energy including power generation, onshore and offshore oil and gas resource recovery, and transportation; and

(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, university, 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 a Federal agency to support the establishment of regulatory standards or regulatory requirements.

SEC. 903. DEFINITIONS.

For purposes of this title:

(1) The term ''Department'' means the Department of Energy.

(2) The term ''departmental mission'' means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(3) The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) The term ''National Laboratory'' means any of the following laboratories owned by the Department:

(A) Ames Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Accelerator Laboratory.

(E) Idaho National Engineering and Environmental 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) Stanford Linear Accelerator Center.

(P) Thomas Jefferson National Accelerator Facility.

(5) The term ''nonmilitary energy laboratory'' means the laboratories listed in (4) with the exclusion of (4)(G), (4)(H), and (4)(N).

(6) The term ''Secretary'' means the Secretary of Energy.

(7) The term ''single-purpose research facility'' means any of the primarily single-purpose entities owned by the Department or any other organization of the Department designated by the Secretary.

Subtitle A—Energy Efficiency

SEC. 911. ENERGY EFFICIENCY.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $616,000,000;

(2) for fiscal year 2005, $695,000,000;

(3) for fiscal year 2006, $772,000,000;

(4) for fiscal year 2007, $865,000,000; and

(5) for fiscal year 2008, $920,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 912—

(A) for fiscal year 2004, $20,000,000; and

(B) for fiscal year 2005, $30,000,000.

(2) For activities under section 914—

(A) for fiscal year 2004, $4,000,000; and

(B) for each of fiscal years 2005 through 2008, $7,000,000.

(3) For activities under section 915—

(A) for fiscal year 2004, $20,000,000;

(B) for fiscal year 2005, $25,000,000;

(C) for fiscal year 2006, $30,000,000;

(D) for fiscal year 2007, $35,000,000; and

(E) for fiscal year 2008, $40,000,000.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for activities under section 912, $50,000,000 for each of fiscal years 2006 through 2013.

(d) None of the funds authorized to be appropriated under this section may be used for—

(1) the promulgation and implementation of energy efficiency regulations;

(2) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act;

(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act; or

(4) the Federal Energy Management Program under part 3 of title V of the National Energy Conservation Policy Act.

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) IN GENERAL.—The Secretary shall carry out a Next Generation Lighting Initiative in

accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(b) 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, are longer lasting; more energy-efficient; cost-competitive and have less environmental impact.

(c) INDUSTRY ALLIANCE.—The Secretary shall, within 3 months from the date of enactment of this section, competitively select an Industry Alliance to represent participants who are private, for-profit firms which, as a group, are broadly representative of United States solid state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(d) RESEARCH.—

(1) The Secretary shall carry out the research activities of the Next Generation Lighting Initiative through competitively awarded grants to researchers, including Industry Alliance participants, national laboratories and institutions of higher education.

(2) The Secretary shall annually solicit from the Industry Alliance—

(A) comments to identify solid-state lighting technology needs;

(B) assessment of the progress of the Initiative's research activities; and

(C) assistance in annually updating solid-state lighting technology roadmaps.

(3) The information and roadmaps under (2) shall be available to the public.

(e) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—The Secretary shall carry out a development, demonstration, and commercial application program for the Next Generation Lighting Initiative through competitively selected awards. The Secretary may give preference to participants of the Industry Alliance selected pursuant to subsection (c).

(f) COST SHARING.—The Secretary shall require cost sharing according to 42 U.S.C. 13542.

(g) INTELLECTUAL PROPERTY.—The Secretary may require, in accordance with the authorities provided in 35 U.S.C. 202(a)(ii), 42 U.S.C. 2182 and 42 U.S.C. 5908, that for any new invention from subsection (d)—

(1) that the Industry Alliance members who are active participants in research, development and demonstration activities related to the advanced solid-state lighting technologies that are the subject of this legislation shall be granted first option to negotiate with the invention owner, at least in the field of solid-state lighting, non-exclusive licenses and royalties on terms that are reasonable under the circumstances;

(2) that the invention owner must offer to negotiate licenses with the Industry Alliance participants cited in (1), in good faith, for at least 1 year after U.S. patents are issued on any such new invention; and

(3) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(h) NATIONAL ACADEMY REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Next Generation Lighting Initiative.

(i) DEFINITIONS.—As used in this section:

(1) The term ''advanced solid-state lighting'' means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) The term ''research'' includes basic research on the technologies, materials and manufacturing processes required for white light emitting diodes.

(3) The term ''Industry Alliance'' means an entity selected by the Secretary under subsection (c).

(4) The term ''white light emitting diode'' means a semiconducting package, utilizing either organic or inorganic materials, that produces white light using externally applied voltage.

SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—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 (e), a National Building Performance Initiative (in this section referred to as the ''Initiative''). The interagency group shall be co-chaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) INTEGRATION OF EFFORTS.—The Initiative shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the interagency group shall submit to Congress a plan for carrying out the appropriate Federal role in the Initiative. The plan shall include—

(1) research, development, demonstration, and commercial application of systems and materials for new construction and retrofit relating to the building envelope and building system components; and

(2) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(e) 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).

(f) CONSTRUCTION.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

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

(1) The term ''battery'' means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(2) The term ''associated equipment'' means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) PROGRAM.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(3) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) SOLICITATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(d) SELECTION OF PROPOSALS.—

(1) The Secretary shall, not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), select up to 5 proposals which may receive financial assistance under this section once the Department is in receipt of appropriated funds.

(2) In selecting proposals, the Secretary shall consider diversity of battery type, geographic and climatic diversity, and life-cycle environmental effects of the approaches.

(3) No one project selected under this section shall receive more than 25 percent of the funds authorized for this Program.

(4) 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) The Secretary may consider such other criteria as the Secretary considers appropriate.

(e) CONDITIONS.—The Secretary shall require that—

(1) relevant information be provided to the Department, the users of the batteries, the proposers, and the battery manufacturers; and

(2) the proposer provide at least 50 percent of the costs associated with the proposal.

SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary shall submit to the Congress, along with the President's annual budget request under section 1105(a) of title 31, United States Code, 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.

Subtitle B—Distributed Energy and Electric Energy Systems

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—

(1) The following sums are authorized to be appropriated to the Secretary for distributed energy and electric energy systems activities, including activities authorized under this subtitle:

(A) for fiscal year 2004, $190,000,000;

(B) for fiscal year 2005, $200,000,000;

(C) for fiscal year 2006, $220,000,000;

(D) for fiscal year 2007, $240,000,000; and

(E) for fiscal year 2008, $260,000,000.

(2) For the Initiative in subsection 927(e), there are authorized to be appropriated—

(A) for fiscal year 2004, $15,000,000;

(B) for fiscal year 2005, $20,000,000;

(C) for fiscal year 2006, $30,000,000;

(D) for fiscal year 2007, $35,000,000; and

(E) for fiscal year 2008, $40,000,000.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under subsection (a), $20,000,000 for each of fiscal years 2004 and 2005 shall be available for activities under section 924.

SEC. 922. HYBRID DISTRIBUTED POWER SYSTEMS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and transmit to the Congress a strategy for a comprehensive research, development, demonstration, and commercial application program to develop hybrid distributed power systems that combine—

(1) one or more renewable electric power generation technologies of 10 megawatts or less located near the site of electric energy use; and

(2) nonintermittent electric power generation technologies suitable for use in a distributed power system.

SEC. 923. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration, and commercial application program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 924. MICRO-COGENERATION ENERGY TECHNOLOGY.

The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology. The consortia shall explore the use of small-scale combined heat and power in residential heating appliances, the use of excess power to operate other appliances within the residence and supply of excess generated power to the power grid.

SEC. 925. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAM.

The Secretary, within the sums authorized under section 921(a)(1), may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the utilization 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.

SEC. 926. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

(a) CREATION OF AN OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.—Title II of the Department of Energy Organization Act is amended by inserting the following after section 217 (42 U.S.C. 7144d):

''OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

''SEC. 218. (a) There is established within the Department an Office of Electric Transmission and Distribution. This Office shall be headed by a Director, who shall be appointed by the Secretary. The Director shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Director shall—

''(1) coordinate and develop a comprehensive, multi-year strategy to improve the Nation's electricity transmission and distribution;

''(2) ensure that the recommendations of the Secretary's National Transmission Grid Study are implemented;

''(3) carry out the research, development, and demonstration functions;

''(4) grant authorizations for electricity import and export;

''(5) perform other electricity transmission and distribution-related functions assigned by the Secretary; and

''(6) develop programs for workforce training in power and transmission engineering.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Act is amended by inserting after the item relating to section 217 the following new item:

''218. Office of Electric Transmission and Distribution.''.

(2) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Electric Transmission and Distribution, Department of Energy.'' after ''Inspector General, Department of Energy.''.

SEC. 927. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) DEMONSTRATION PROGRAM.—The Secretary, acting through the Director of the Office of Electric Transmission and Distribution, shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems. This program shall include—

(1) advanced energy and energy storage technologies, materials, and systems, giving priority to new transmission technologies, including composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) PROGRAM PLAN.—Not later than 1 year after the date of the enactment of this legislation, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. In preparing the program plan, the Secretary shall consult with utilities, energy services providers, manufacturers, institutions of higher education, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

(c) IMPLEMENTATION.—The Secretary shall consider implementing this program using a consortium of industry, university and national laboratory participants.

(d) REPORT.—Not later than 2 years after the transmittal of the plan under subsection (b), the Secretary shall transmit a report to Congress describing the progress made under this section and identifying any additional resources needed to continue the development and commercial application of transmission and distribution of infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—The Secretary shall establish a research, development and demonstration initiative specifically focused on power delivery utilizing components incorporating high temperature superconductivity.

(1) Goals of this Initiative shall be to—

(A) establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) provide technical leadership for establishing reliability for high temperature superconductivity power applications including suitable modeling and analysis;

(C) facilitate commercial transition toward direct current power transmission, storage, and use for high power systems utilizing high temperature superconductivity; and

(D) facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control and reliability.

(2) The Initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current and controllable alternating current transmission systems;

(B) public-private 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 universities to demonstrate these technologies, prepare the technologies for commercial introduction, and address cost or performance roadblocks to successful commercial use.

(f) TRANSMISSION AND DISTRIBUTION GRID PLANNING AND OPERATIONS INITIATIVE.—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. Goals of this Initiative shall be to—

(1) develop and utilize a geographically distributed Center, consisting of research universities and national laboratories, with expertise and facilities to develop the underlying theory and software for power system application, and to assure commercial development in partnership with software vendors and utilities;

(2) provide technical leadership in engineering and economic analysis for reliability and efficiency of power systems planning and operations in the presence of competitive markets for electricity;

(3) model, simulate and experiment with new market mechanisms and operating practices to understand and optimize such new methods before actual use; and

(4) provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

Subtitle C—Renewable Energy

SEC. 931. RENEWABLE ENERGY.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $480,000,000;
(2) for fiscal year 2005, $550,000,000;
(3) for fiscal year 2006, $610,000,000;
(4) for fiscal year 2007, $659,000,000; and
(5) for fiscal year 2008, $710,000,000.

(b) BIOENERGY.—From the amounts authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 932:
(1) for fiscal year 2004, $135,425,000;
(2) for fiscal year 2005, $155,600,000;
(3) for fiscal year 2006, $167,650,000;
(4) for fiscal year 2007, $180,000,000; and
(5) for fiscal year 2008, $192,000,000.

(c) BIODIESEL ENGINE TESTING.—From amounts authorized under subsection (a), $5,000,000 is authorized to be appropriated in each of fiscal years 2004 and 2008 to carry out section 933.

(d) CONCENTRATING SOLAR POWER.—From amounts authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 934:
(1) for fiscal year 2004, $20,000,000;
(2) for fiscal year 2005, $40,000,000; and
(3) for each of fiscal years 2006, 2007 and 2008, $50,000,000.

(e) LIMITS ON USE OF FUNDS.—
(1) None of the funds authorized to be appropriated under this section may be used for Renewable Support and Implementation.
(2) Of the funds authorized under subsection (b), not less than $5,000,000 for each fiscal year shall be made available for grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions.

(f) CONSULTATION.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of advanced wind power technology, including combined use with coal gasification; biomass; geothermal energy systems; and other renewable energy technologies to assist in delivering electricity to rural and remote locations.

SEC. 932. BIOENERGY PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—
(1) biopower energy 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.

(b) BIOFUELS AND BIOPRODUCTS.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry—
(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from cellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles; and
(2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of biorefinery technologies using enzyme-based processing systems.

(c) DEFINITION.—For purposes of (b), the term ''cellulosic feedstock'' means any portion of a crop not normally used in food production or any non-food crop grown for the purpose of producing biomass feedstock.

SEC. 933. BIODIESEL ENGINE TESTING PROGRAM.

(a) IN GENERAL.—Not later that 180 days after enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) SCOPE.—The study shall provide for testing to determine the impact of biodiesel on current and future emission control technologies, with emphasis on—
(1) the impact of biodiesel on emissions warranty, in-use liability, and anti-tampering provisions;
(2) the impact of long-term use of biodiesel on engine operations;
(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and
(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15-parts-per-million sulfur content.

(c) REPORT.—Not later than 2 years after the date of enactment, the Secretary shall provide an interim report to Congress on the findings of this study, 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) DEFINITION.—For purposes of this section, the term ''biodiesel'' means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D6751–02a ''Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels''.

SEC. 934. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a program of research and development to evaluate the potential of concentrating solar power for hydrogen production, including co-generation approaches for both hydrogen and electricity. Such program shall take advantage of existing facilities to the extent possible and shall include—
(1) development of optimized technologies that are common to both electricity and hydrogen production;
(2) evaluation of thermo-chemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;
(3) evaluation of materials issues for the thermo-chemical cycles in (2);
(4) system architectures and economics studies; and
(5) coordination with activities in the Advanced Reactor Hydrogen Co-generation Project on high temperature materials, thermo-chemical cycle and economic issues.

(b) ASSESSMENT.—In carrying out the program under this section, the Secretary is directed to assess conflicting guidance on the economic potential of concentrating solar power for electricity production received from the National Research Council report entitled ''Renewable Power Pathways: A Review of the U.S. Department of Energy's Renewable Energy Programs'' in 2000 and subsequent DOE-funded reviews of that report and provide an assessment of the potential impact of this technology before, or concurrent with, submission of the fiscal year 2006 budget.

(c) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall provide a report to Congress on the economic and technical potential for electricity or hydrogen production, with or without co-generation, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity and/or hydrogen from concentrating solar power.

SEC. 935. MISCELLANEOUS PROJECTS.

The Secretary shall conduct research, development, demonstration, and commercial application programs for—
(1) ocean energy, including wave energy;
(2) 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; and
(3) renewable energy technologies for co-generation of hydrogen and electricity.

Subtitle D—Nuclear Energy

SEC. 941. NUCLEAR ENERGY.

(a) CORE PROGRAMS.—The following sums are authorized to be appropriated to the Secretary for nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle, other than those described in subsection (b):
(1) for fiscal year 2004, $273,000,000;
(2) for fiscal year 2005, $305,000,000;
(3) for fiscal year 2006, $330,000,000;
(4) for fiscal year 2007, $355,000,000; and
(5) for fiscal year 2008, $495,000,000.

(b) NUCLEAR INFRASTRUCTURE SUPPORT.—The following sums are authorized to be appropriated to the Secretary for activities under section 942(f):
(1) for fiscal year 2004, $125,000,000;
(2) for fiscal year 2005, $130,000,000;
(3) for fiscal year 2006, $135,000,000;
(4) for fiscal year 2007, $140,000,000; and
(5) for fiscal year 2008, $145,000,000.

(c) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:
(1) For activities under section 943—
(A) for fiscal year 2004, $140,000,000;
(B) for fiscal year 2005, $145,000,000;
(C) for fiscal year 2006, $150,000,000;
(D) for fiscal year 2007, $155,000,000; and
(E) for fiscal year 2008, $275,000,000.
(2) For activities under section 944—
(A) for fiscal year 2004, $33,000,000;
(B) for fiscal year 2005, $37,900,000;
(C) for fiscal year 2006, $43,600,000;
(D) for fiscal year 2007, $50,100,000; and
(E) for fiscal year 2008, $56,000,000.
(3) For activities under section 946, for each of fiscal years 2004 through 2008, $6,000,000.

(d) None of the funds authorized under this section may be used for decommissioning the Fast Flux Test Facility.

SEC. 942. NUCLEAR ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development related to nuclear energy.

(b) NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.—The Secretary shall carry out a Nuclear Energy Plant Optimization 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.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations in the October 2001 report entitled ''A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010'' issued by the Nuclear Energy Research Advisory Committee of the Department. The Program shall include—
(1) utilization of the expertise and capabilities of industry, universities, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;
(2) consideration of a variety of reactor designs suitable for both developed and developing nations;

(3) participation of international collaborators in research, development, and design efforts as appropriate; and

(4) encouragement for university and industry participation.

(d) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application. The Initiative shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(1) are economically competitive with other electric power generation plants;

(2) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(3) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and

(4) use improved instrumentation.

(e) REACTOR PRODUCTION OF HYDROGEN.—The Secretary shall carry out research to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen using thermo-chemical processes.

(f) NUCLEAR INFRASTRUCTURE SUPPORT.—The Secretary shall develop and implement a strategy for the facilities of the Office of Nuclear Energy, Science, and Technology and shall transmit a report containing the strategy along with the President's budget request to the Congress for fiscal year 2006. Such strategy shall provide a cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility upgrades and modifications; and

(4) building new facilities.

SEC. 943. ADVANCED FUEL CYCLE INITIATIVE.

(a) IN GENERAL.—The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program to evaluate proliferation-resistant fuel recycling and transmutation technologies which minimize environmental or public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate. Opportunities to enhance progress of this program through international cooperation should be sought.

(b) REPORTS.—The Secretary shall report on the activities of the advanced fuel recycling technology research and development program as part of the Department's annual budget submission.

SEC. 944. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) ESTABLISHMENT.—The Secretary shall support a program to invest in human resources and infrastructure in the nuclear sciences and engineering and related fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) DUTIES.—In carrying out the program under this section, the Secretary shall establish fellowship and faculty assistance programs, as well as provide support for fundamental research and encourage collaborative research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative. The Secretary is encouraged to support activities addressing the entire fuel cycle through involvement of both the Offices of Nuclear Energy, Science and Technology and Civilian Radioactive Waste Management. The Secretary shall support communication and outreach related to nuclear science, engineering and nuclear waste management.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Activities under this section may include—

(1) converting research reactors currently using high-enrichment fuels to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among institutions of higher education;

(2) providing technical assistance, in collaboration with the United States nuclear industry, in relicensing and upgrading training reactors as part of a student training program; and

(3) providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.—The Secretary shall develop sabbatical fellowship and visiting scientist programs to encourage sharing of personnel between national laboratories and universities.

(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a research reactor at an institution of higher education used in the research project.

SEC. 945. SECURITY OF NUCLEAR FACILITIES.

The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology shall conduct a research and development program on cost-effective technologies for increasing the safety of nuclear facilities from natural phenomena and the security of nuclear facilities from deliberate attacks.

SEC. 946. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) SURVEY.—Not later than August 1, 2004, the Secretary shall provide to the Congress results of a survey of industrial applications of large radioactive sources. The survey shall—

(1) consider well-logging sources as one class of industrial sources;

(2) include information on current domestic and international Department, Department of Defense, State Department and commercial programs to manage and dispose of radioactive sources; and

(3) discuss available disposal options for currently deployed or future sources and, if deficiencies are noted for either deployed or future sources, recommend legislative options that Congress may consider to remedy identified deficiencies.

(b) PLAN.—In conjunction with the survey in subsection (a), the Secretary shall establish a research and development program to develop alternatives to such sources that reduce safety, environmental, or proliferation risks to either workers using the sources or the public. Miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site shall be considered as part of the research and development efforts. Details of the program plan shall be provided to the Congress by August 1, 2004.

Subtitle E—Fossil Energy

SEC. 951. FOSSIL ENERGY.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for fossil energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $523,000,000;

(2) for fiscal year 2005, $542,000,000;

(3) for fiscal year 2006, $558,000,000;

(4) for fiscal year 2007, $585,000,000; and

(5) for fiscal year 2008, $600,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 952(b)(2), $28,000,000 for each of the fiscal years 2004 through 2008.

(2) For activities under section 953—

(A) for fiscal year 2004, $12,000,000;

(B) for fiscal year 2005, $15,000,000; and

(C) for each of fiscal years 2006 through 2008, $20,000,000.

(3) For activities under section 954, to remain available until expended—

(A) for fiscal year 2004, $200,000,000;

(B) for fiscal year 2005, $210,000,000; and

(C) for fiscal year 2006, $220,500,000.

(4) For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2004 through 2008.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2009 through 2012.

(d) LIMITS ON USE OF FUNDS.—

(1) None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) Of the funds authorized under subsection (b)(2), not less than 20 percent of the funds appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

SEC. 952. OIL AND GAS RESEARCH PROGRAMS.

(a) OIL AND GAS RESEARCH.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil and shale; and

(7) related environmental research.

(b) FUEL CELLS.—

(1) 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.

(2) The demonstrations shall include fuel cell proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, utilizing improved manufacturing production and processes.

(c) NATURAL GAS AND OIL DEPOSITS REPORT.—Not later than 2 years after the date of the enactment of this Act, and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall transmit a report to the Congress of the latest estimates of natural gas and oil reserves, reserves growth, and undiscovered resources in Federal and State waters off the coast of Louisiana and Texas.

(d) INTEGRATED CLEAN POWER AND ENERGY RESEARCH.—

(1) The Secretary shall establish a national center or consortium of excellence in clean

energy and power generation, utilizing the resources of the existing Clean Power and Energy Research Consortium, to address the nation's critical dependence on energy and the need to reduce emissions.

(2) The center or consortium will conduct a program of research, development, demonstration and commercial application on integrating the following six focus areas—

(A) efficiency and reliability of gas turbines for power generation;

(B) reduction in emissions from power generation;

(C) promotion of energy conservation issues;

(D) effectively utilizing alternative fuels and renewable energy;

(E) development of advanced materials technology for oil and gas exploration and utilization in harsh environments; and

(F) education on energy and power generation issues.

SEC. 953. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program for research and development on coal mining technologies. The Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(b) PROGRAM.—The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations form relevant reports of the National Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging and techniques for horizontal drilling in order to increase methane recovery efficiency, prevent spoilage of domestic coal reserves and minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

SEC. 954. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the program authorized under Title II of this Act, the Secretary of Energy shall conduct a program of technology research, development and demonstration and commercial application for coal and power systems, including programs to facilitate production and generation of coal-based power through—

(1) innovations for existing plants;

(2) integrated gasification combined cycle;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived transportation fuels and chemicals;

(7) solid fuels and feedstocks; and

(8) advanced coal-related research.

(b) COST AND PERFORMANCE GOALS.—In carrying out programs authorized by this section, the Secretary shall identify cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in 2007, 2015, and the years after 2020. In establishing such cost and performance goals, the Secretary shall—

(1) consider activities and studies undertaken to date by industry in cooperation with the Department of Energy in support of such assessment;

(2) consult with interested entities, including coal producers, industries using coal, organizations to promote coal and advanced coal technologies, environmental organizations and organizations representing workers;

(3) not later than 120 days after the date of enactment of this section, publish in the Federal Register proposed draft cost and performance goals for public comments; and

(4) not later than 180 days after the date of enactment of this section and every four years thereafter, submit to Congress a report describing final cost and performance goals for such technologies that includes a list of technical milestones as well as an explanation of how programs authorized in this section will not duplicate the activities authorized under the Clean Coal Power Initiative authorized under Title II of this Act.

SEC. 955. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary of Energy, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.

Subtitle F—Science

SEC. 961. SCIENCE.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle, including the amounts authorized under the amendment made by section 967(c)(2)(D), and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, and research analysis and infrastructure support:

(1) for fiscal year 2004, $3,785,000,000;

(2) for fiscal year 2005, $4,153,000,000;

(3) for fiscal year 2006, $4,586,000,000;

(4) for fiscal year 2007, $5,000,000,000; and

(5) For fiscal year 2008, $5,400,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities of the Fusion Energy Sciences Program, including activities under section 962—

(A) for fiscal year 2004, $335,000,000;

(B) for fiscal year 2005, $349,000,000;

(C) for fiscal year 2006, $362,000,000;

(D) for fiscal year 2007, $377,000,000; and

(E) for fiscal year 2008, $393,000,000.

(2) For the Spallation Neutron Source—

(A) for construction in fiscal year 2004, $124,600,000;

(B) for construction in fiscal year 2005, $79,800,000;

(C) for completion of construction in fiscal year 2006, $41,100,000; and

(D) for other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment related to construction), $103,279,000 for the period encompassing fiscal years 2003 through 2006, to remain available until expended through September 30, 2006.

(3) For Catalysis Research activities under section 965—

(A) for fiscal year 2004, $33,000,000;

(B) for fiscal year 2005, $35,000,000;

(C) for fiscal year 2006, $36,500,000;

(D) for fiscal year 2007, $38,200,000; and

(E) for fiscal year 2008, $40,100,000.

(4) For Nanoscale Science and Engineering Research activities under section 966—

(A) for fiscal year 2004, $270,000,000;

(B) for fiscal year 2005, $290,000,000;

(C) for fiscal year 2006, $310,000,000;

(D) for fiscal year 2007, $330,000,000; and

(E) for fiscal year 2008, $375,000,000.

(5) For activities under subsection 966(c), from the amounts authorized under subparagraph (4)—

(A) for fiscal year 2004, $135,000,000;

(B) for fiscal year 2005, $150,000,000;

(C) for fiscal year 2006, $120,000,000;

(D) for fiscal year 2007, $100,000,000; and

(E) for fiscal year 2008, $125,000,000.

(6) For activities in the Genomes to Life Program under section 968—

(A) for fiscal year 2004, $100,000,000;

(B) for fiscal year 2005, $170,000,000;

(C) for fiscal year 2006, $325,000,000;

(D) for fiscal year 2007, $415,000,000; and

(E) for fiscal year 2008, $455,000,000.

(7) For construction and ancillary equipment of the Genomes to Life User Facilities under section 968(d), of funds authorized under (6)—

(A) for fiscal year 2004, $16,000,000;

(B) for fiscal year 2005, $70,000,000;

(C) for fiscal year 2006, $175,000,000;

(D) for fiscal year 2007, $215,000,000; and

(E) for fiscal year 2008, $205,000,000.

(8) For activities in the Water Supply Technologies Program under section 970, $30,000,000 for each of fiscal years 2004 through 2008.

(c) In addition to the funds authorized under subsection (b)(1), the following sums are authorized for construction costs associated with the ITER project under section 962—

(1) for fiscal year 2006, $55,000,000;

(2) for fiscal year 2007, $95,000,000; and

(3) for fiscal year 2008, $115,000,000.

SEC. 962. UNITED STATES PARTICIPATION IN ITER.

(a) PARTICIPATION.—

(1) The Secretary of Energy is authorized to undertake full scientific and technological cooperation in the International Thermonuclear Experimental Reactor project (referred to in this title as ''ITER'').

(2) In the event that ITER fails to go forward within a reasonable period of time, the Secretary shall send to Congress a plan, including costs and schedules, for implementing the domestic burning plasma experiment known as the Fusion Ignition Research Experiment. Such a plan shall be developed with full consultation with the Fusion Energy Sciences Advisory Committee and be reviewed by the National Research Council.

(3) It is the intent of Congress that such sums shall be largely for work performed in the United States and that such work contributes the maximum amount possible to the U.S. scientific and technological base.

(b) PLANNING.—

(1) Not later than 180 days of the date of enactment of this act, the Secretary shall present to Congress a plan, with proposed cost estimates, budgets and potential international partners, for the implementation of the goals of this section. The plan shall ensure that—

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling and simulation are strengthened;

(C) new magnetic and inertial fusion research facilities are selected based on scientific innovation, cost effectiveness, and their potential to advance the goal of practical fusion energy at the earliest date possible, and those that are selected are funded at a cost-effective rate;

(D) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(E) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(F) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(2) Such plan shall also address the status of and, to the degree possible, costs and schedules for—

(A) in coordination with the program in section 969, the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

SEC. 963. SPALLATION NEUTRON SOURCE.

(a) DEFINITION.—For the purposes of this section, the term ''Spallation Neutron Source'' means Department Project 9909E 09334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) REPORT.—The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

(c) AUTHORIZATION OF APPROPRIATIONS.—The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

(1) $1,192,700,000 for costs of construction;

(2) $219,000,000 for other project costs; and

(3) $1,411,700,000 for total project cost.

SEC. 964. SUPPORT FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.

(a) FACILITY AND INFRASTRUCTURE POLICY.—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. Such strategy shall provide cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) REPORT.—

(1) The Secretary shall prepare and transmit, along with the President's budget request to the Congress for fiscal year 2006, a report containing the strategy developed under subsection (a).

(2) For each national laboratory and single-purpose research facility, for the facilities primarily used for science and energy research, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-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 total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 965. 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 Department's statutory authorities related to research and development. 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 sub-nanometer scales in situ under actual operating conditions:

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out this program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators in collaboration with national user facilities such as nanoscience and engineering centers;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other federal agencies.

(c) TRIENNIAL ASSESSMENT.—The National Academy of Sciences shall review the catalysis program every three years to report on gains made in the fundamental science of catalysis and its progress towards developing new fuels for energy production and material fabrication processes.

SEC. 966. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research, development, demonstration, and commercial application in nanoscience and nanoengineering. The program shall include efforts to further the understanding of the chemistry, physics, materials science, and engineering of phenomena on the scale of nanometers and to apply this knowledge to the Department's mission areas.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) support both individual investigators and teams of investigators, including multidisciplinary teams;

(2) carry out activities under subsection (c);

(3) support technology transfer activities to benefit industry and other users of nanoscience and nanoengineering; and

(4) coordinate research and development activities with other DOE programs, industry and other Federal agencies.

(c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—

(1) The Secretary shall carry out projects to develop, plan, construct, acquire, operate, or support special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanoengineering.

(2) Projects under paragraph (1) may include the measurement of properties at the scale of nanometers, manipulation at such scales, and the integration of technologies based on nanoscience or nanoengineering into bulk materials or other technologies.

(3) Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities, and related instrumentation.

(4) The Secretary shall encourage collaborations among DOE programs, institutions of higher education, laboratories, and industry at facilities under this subsection.

SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) IN GENERAL.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenge, computationally based, science problems related to departmental missions.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms in collaboration with other DOE program offices;

(2) enhance the foundations for scientific computing by developing the basic mathematical and computing systems software needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;

(3) enhance national collaboratory and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets;

(4) maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address departmental missions are available; and

(5) explore new computing approaches and technologies that promise to advance scientific computing including developments in quantum computing.

(c) HIGH-PERFORMANCE COMPUTING ACT OF 1991 AMENDMENTS.—The High-Performance Computing Act of 1991 is amended—

(1) in section 4 (15 U.S.C. 5503)—

(A) in paragraph (3) by striking ''means'' and inserting ''and 'networking and information technology' mean'', and by striking ''(including vector supercomputers and large scale parallel systems)''; and

(B) in paragraph (4), by striking ''packet switched''; and

(2) in section 203 (15 U.S.C. 5523)—

(A) in subsection (a), by striking all after ''As part of the'' and inserting: ''Networking and Information Technology Research and Development Program, the Secretary of Energy shall conduct basic and applied research in networking and information technology, with emphasis on supporting fundamental research in the physical sciences and engineering, and energy applications; providing supercomputer access and advanced communication capabilities and facilities to scientific researchers; and developing tools for distributed scientific collaboration.'';

(B) in subsection (b), by striking ''Program'' and inserting ''Networking and Information Technology Research and Development Program''; and

(C) by amending subsection (e) to read as follows:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out the Networking and Information Technology Research and Development Program such sums as may be necessary for fiscal years 2004 through 2008.''.

(d) COORDINATION.—The Secretary shall ensure that the program under this section is integrated and consistent with—

(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Administration; and

(2) other national efforts related to advanced scientific computing for science and engineering.

SEC. 968. GENOMES TO LIFE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a program of research, development, demonstration, and commercial application, to be known as the Genomes to Life Program, in systems biology and proteomics consistent with the Department's statutory authorities.

(b) PLANNING.—

(1) The Secretary shall prepare a program plan describing how knowledge and capabilities would be developed by the program and applied to Department missions relating to energy security, environmental cleanup, and national security.

(2) The program plan will be developed in consultation with other relevant Department technology programs.

(3) The program plan shall focus science and technology on long-term goals, including—

(A) contributing to U.S. independence from foreign energy sources, including production of hydrogen;

(B) converting carbon dioxide to organic carbon;

(C) advancing environmental cleanup;

(D) providing the science and technology for new biotechnology industries; and

(E) improving national security and combating bioterrorism.

(4) The program plan shall establish specific short-term goals and update these goals with the Secretary's annual budget submission.

(c) PROGRAM EXECUTION.—In carrying out the program under this Act, the Secretary shall—

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support technology transfer activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other federal agencies.

(d) GENOMES TO LIFE USER FACILITIES AND ANCILLARY EQUIPMENT.—

(1) Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 961(b)(7) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) Projects under paragraph (1) may include—

(A) the identification and characterization of multiprotein complexes;

(B) characterization of gene regulatory networks;

(C) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(D) development of computational methods and capabilities to advance understanding of complex biological systems and predict their behavior.

(3) Facilities under paragraph (1) may include facilities, equipment, or instrumentation for—

(A) the production and characterization of proteins;

(B) whole proteome analysis;

(C) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. All facilities under this subsection shall have a specific mission of technology transfer to other institutions.

SEC. 969. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

In the President's fiscal year 2006 budget request, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the Department's fusion energy program. The program shall develop a catalog of material properties required for these applications, develop theoretical models for materials possessing the required properties, benchmark models against existing data, and develop a roadmap to guide further research and development in this area.

SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) ESTABLISHMENT.—There is established within the Office of Science, Office of Biological and Environmental Research, the ''Energy-Water Supply Technologies Program,'' to study energy-related issues associated with water resources and municipal waterworks and to study water supply issues related to energy production.

(b) DEFINITIONS.—

(1) The term ''Foundation'' means the American Water Works Association Research Foundation.

(2) The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) The term ''Program'' means the Water Supply Technologies Program established by section 970(a).

(c) PROGRAM AREAS.—The program shall conduct research and development, including—

(1) arsenic removal under subsection (d);

(2) desalination research program under subsection (e);

(3) the water and energy sustainability program under subsection (f); and

(4) other energy-intensive water supply and treatment technologies and other technologies selected by the Secretary.

(d) ARSENIC REMOVAL PROGRAM.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the Foundation to utilize the facilities, institutions and relationships established in the ''Consolidated Appropriations Resolution, 2003'' as described in Senate Report 107–220 that will carry out a research program to develop and demonstrate innovative arsenic removal technologies.

(2) In carrying out the arsenic removal program, the Foundation shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials, operating, and maintenance costs incurred in using arsenic removal technologies; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) The Foundation shall carry out peer-reviewed research and demonstration projects to develop and demonstrate water purification technologies.

(4) In carrying out the arsenic removal program—

(A) demonstration projects will be implemented with municipal water system partners to demonstrate the applicability of innovative arsenic removal technologies in areas with different water chemistries representative of areas across the United States with arsenic levels near or exceeding EPA guidelines; and

(B) not less than 40 percent of the funds of the Department used for demonstration projects under the arsenic removal program shall be expended on projects focused on needs of and in partnership with rural communities or Indian tribes.

(5) The Foundation shall develop evaluations of cost effectiveness of arsenic removal technologies used in the program and an education, training, and technology transfer component for the program.

(6) The Secretary shall consult with the Administrator of the Environmental Protection Agency to ensure that activities under the arsenic removal program are coordinated with appropriate programs of the Environmental Protection Agency and other federal agencies, state programs and academia.

(7) Not later than 1 year after the date of commencement of the arsenic removal program, and annually thereafter, the Secretary shall submit to Congress a report on the results of the arsenic removal program.

(e) DESALINATION PROGRAM.—

(1) The Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination research program in accordance with the desalination technology progress plan developed in Title II of the Energy and Water Development Appropriations Act, 2002 (115 Stat. 498), and described in Senate Report 107–39 under the heading ''WATER AND RELATED RESOURCES'' in the ''BUREAU OF RECLAMATION'' section.

(2) The desalination program shall—

(A) draw on the national laboratory partnership established with the Bureau of Reclamation to develop the January 2003 national Desalination and Water Purification Technology Roadmap for next-generation desalination technology;

(B) focus on research relating to, and development and demonstration of, technologies that are appropriate for use in desalinating brackish groundwater, wastewater and other saline water supplies; disposal of residual brine or salt; and

(C) consider the use of renewable energy sources.

(3) Under the desalination program, funds made available may be used for construction projects, including completion of the National Desalination Research Center for brackish groundwater and ongoing facility operational costs.

(4) The Secretary and the Commissioner of Reclamation shall jointly establish a steering committee for the desalination program. The steering committee shall be jointly chaired by 1 representative from this Program and 1 representative from the Bureau of Reclamation.

(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

(1) The Secretary shall carry out a research program to develop understanding and technologies to assist in ensuring that sufficient quantities of water are available to meet present and future requirements.

(2) Under this program and in collaboration with other programs within the Department including those within the Offices of Fossil Energy and Energy Efficiency and Renewable Energy, the Secretary of the Interior, Army Corps of Engineers, Environmental Protection Agency, Department of Commerce, Department of Defense, state agencies, non-governmental agencies and

academia, the Secretary shall assess the current state of knowledge and program activities concerning—

(A) future water resources needed to support energy production within the United States including but not limited to the water needs for hydropower and thermo-electric power generation;

(B) future energy resources needed to support development of water purification and treatment including desalination and long-distance water conveyance;

(C) reuse and treatment of water produced as a by-product of oil and gas extraction;

(D) use of impaired and non-traditional water supplies for energy production and other uses; and

(E) technologies to reduce water use in energy production.

(3) In addition to the assessments in (2), the Secretary shall—

(A) develop a research plan defining the scientific and technology development needs and activities required to support long-term water needs and planning for energy sustainability, use of impaired water for energy production and other uses, and reduction of water use in energy production;

(B) carry out the research plan required under (A) including development of numerical models, decision analysis tools, economic analysis tools, databases, planning methodologies and strategies;

(C) implement at least three planning demonstration projects using the models, tools and planning approaches developed under subparagraph (B) and assess the viability of these tools at the scale of river basins with at least one demonstration involving an international border; and

(D) transfer these tools to other federal agencies, state agencies, non-profit organizations, industry and academia for use in their energy and water sustainability efforts.

(4) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that describes the research elements described under paragraph (2), and makes recommendations for a management structure that optimizes use of Federal resources and programs.

(g) COST SHARING.—

(1) Research projects under this section shall not require cost-sharing.

(2) Each demonstration project carried out under the Program shall be carried out on a cost-shared basis, as determined by the Secretary.

(3) With respect to a demonstration project, the Secretary may accept in-kind contributions, and waive the cost-sharing requirement in appropriate circumstances.

Subtitle G—Energy and Environment

SEC. 971. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.

(a) PROGRAM.—The Secretary shall establish a research, development, demonstration, and commercial application program to be carried out in collaboration with entities in Mexico and the United States to promote energy efficient, environmentally sound economic development along the United States-Mexico border which minimizes public health risks from industrial activities in the border region.

(b) PROGRAM MANAGEMENT.—The program under subsection (a) shall be managed by the Department of Energy Carlsbad Environmental Management Field Office.

(c) TECHNOLOGY TRANSFER.—In carrying out projects and activities under this section, the Secretary shall assess the applicability of technology developed under the Environmental Management Science Program of the Department.

(d) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered into between the United States and Mexico regarding intellectual property protection.

(e) AUTHORIZATION OF APPROPRIATIONS.—The following sums are authorized to be appropriated to the Secretary to carry out activities under this section:

(1) For each of fiscal years 2004 and 2005, $5,000,000.

(2) For each of fiscal years 2006, 2007, and 2008, $6,000,000.

SEC. 972. COAL TECHNOLOGY LOAN.

There are authorized to be appropriated to the Secretary $125,000,000 to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE–FC–22–91PC90544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

Subtitle H—Management

SEC. 981. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this title shall remain available until expended.

SEC. 982. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for research and development programs carried out under this title, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. Cost sharing is not required for research and development of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this subtitle, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this subtitle to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

SEC. 983. MERIT REVIEW OF PROPOSALS.

Awards of funds authorized under this title shall be made only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department.

SEC. 984. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) The Secretary shall establish one or more advisory boards to review Department research, development, demonstration, and commercial application programs in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, and may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) UTILIZATION OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet at least semi-annually to review and advise on the progress made by the respective research, development, demonstration, and commercial application program or programs. The advisory board shall also review the measurable cost and performance-based goals for such programs as established under section 902, and the progress on meeting such goals.

(e) PERIODIC REVIEWS AND ASSESSMENTS.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of the programs authorized by this title, the measurable cost and performance-based goals for such programs as established under section 902, if any, and the progress on meeting such goals. Such reviews and assessments shall be conducted every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the Congress reports containing the results of all such reviews and assessments.

SEC. 985. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.

(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall designate a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Transfer Working Group, shall oversee the expenditure of funds allocated to the Technology Transfer Working Group, and shall coordinate with each technology partnership ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c).

(b) 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 those related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(c) TECHNOLOGY TRANSFER RESPONSIBILITY.—Nothing in this section shall affect the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980.

SEC. 986. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(b) PURPOSE.—The purpose of the Technology Infrastructure Program shall be to improve the ability of National Laboratories 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 National Laboratories or single-purpose research facilities and entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as institutions of higher education; technology-related business concerns; nonprofit institutions; and agencies of State, tribal, or local governments.

(c) PROJECTS.—The Secretary shall authorize the Director of each National Laboratory or single-purpose research facility to implement the Technology Infrastructure Program at such National Laboratory or facility through projects that meet the requirements of subsections (d) and (e).

(d) PROGRAM REQUIREMENTS.—Each project funded under this section shall meet the following requirements:

(1) Each project shall include at least one of each of the following entities: a business; an institution of higher education; a nonprofit institution; and an agency of a State, local, or tribal government.

(2) Not less than 50 percent of the costs of each project funded under this section shall be provided from non-Federal sources. The calculation of costs paid by the non-Federal sources to a project shall include cash, personnel, services, equipment, and other resources expended on the project after start of the project. Independent research and development expenses of Government contractors that qualify for reimbursement under section 3109205 0918(e) of the Federal Acquisition 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.

(3) All projects under this section shall be competitively selected using procedures determined by the Secretary.

(4) Any participant that receives funds under this section may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(5) No Federal funds shall be made available under this section for construction or any project for more than 5 years.

(e) SELECTION CRITERIA.—

(1) The Secretary shall allocate funds under this section only if the Director of 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 technical success in meeting departmental missions.

(2) The Secretary shall consider the following criteria in selecting a project to receive Federal funds—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster following the period of Department investment, which will derive most of the demand for its products or services from the private sector, and 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 to achieve its mission or the commercial development of technological innovations made at 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-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions 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 involves such small businesses substantively in the project; and

(E) such other criteria as the Secretary determines to be appropriate.

(f) ALLOCATION.—In allocating funds for projects approved under this section, the Secretary shall provide—

(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 such activities with the project.

(g) REPORT TO CONGRESS.—Not later than July 1, 2006, the Secretary shall report to Congress on whether the Technology Infrastructure Program should be continued and, if so, how the program should be managed.

(h) DEFINITIONS.—In this section:

(1) 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.

(2) The term ''technology-related business concern'' means a for-profit corporation, company, association, firm, partnership, or small business concern that conducts scientific or engineering research; develops new technologies; manufactures products based on new technologies; or performs technological services.

(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 2004, 2005, and 2006.

SEC. 987. 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, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small businesses training, mentoring, and information on how 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 guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or single-purpose research facility.

(b) 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—

(1) assistance directed at making them 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 small business concern's products or services.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

(d) DEFINITIONS.—In this section:

(1) The term ''small business concern'' has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term ''socially and economically disadvantaged small business concerns'' has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for activities under this section $5,000,000 for each of fiscal years 2004 through 2008.

SEC. 988. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit a report to the Congress identifying any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities and provide suggestions for improving inter-laboratory exchange of scientific and technical personnel.

SEC. 989. NATIONAL ACADEMY OF SCIENCES REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences for the Academy to—

(1) conduct a study on—

(A) the obstacles to accelerating the research, development, demonstration, and commercial application cycle for energy technology; and

(B) the adequacy of Department policies and procedures for, and oversight of, technology transfer-related disputes between contractors of the Department and the private sector; and

(2) report to the Congress on recommendations developed as a result of the study.

SEC. 990. OUTREACH.

The Secretary shall ensure that each program authorized by this title 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. 991. 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 nonmilitary energy laboratory of the Department unless such contract is competitively awarded or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver and shall submit to the Congress a report notifying the Congress of the waiver and setting forth the reasons for the

waiver at least 60 days prior to the date of the award of such a contract.

SEC. 992. REPROGRAMMING.

(a) DISTRIBUTION REPORT.—Not later than 60 days after the date of the enactment of an Act appropriating amounts authorized under this title, the Secretary shall transmit to the appropriate authorizing committees of the Congress a report explaining how such amounts will be distributed among the authorizations contained in this title.

(b) PROHIBITION.—

(1) No amount identified under subsection (a) shall be reprogrammed if such reprogramming would result in an obligation which changes an individual distribution required to be reported under subsection (a) by more than 5 percent unless the Secretary has transmitted to the appropriate authorizing committees of the Congress a report described in subsection (c) and a period of 30 days has elapsed after such committees receive the report.

(2) In the computation of the 30-day period described in paragraph (1), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) REPROGRAMMING REPORT.—A report referred to in subsection (b)(1) shall contain a full and complete statement of the action proposed to be taken and the facts and circumstances relied on in support of the proposed action.

SEC. 993. CONSTRUCTION WITH OTHER LAWS.

Except as otherwise provided in this title, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this title in accordance with the applicable provisions of the Atomic Energy Act of 1954 (42 U.S.C. et seq.), the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act), and any other Act under which the Secretary is authorized to carry out such activities.

SEC. 994. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

''(b)(1) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(2) The Under Secretary for Energy and Science shall be appointed from among persons who—

''(A) have extensive background in scientific or engineering fields; and

''(B) are well qualified to manage the civilian research and development programs of the Department of Energy.

''(3) The Under Secretary for Energy and Science shall—

''(A) serve as the Science and Technology Advisor to the Secretary;

''(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

''(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

''(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

''(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

''(F) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology functions under sections 203 and 209, as well as other elements of the Department assigned by the Secretary.''.

(b) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—

(1) Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended to read as follows:

''OFFICE OF SCIENCE

''SEC. 209. (a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary for Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Assistant Secretary for Science shall be in addition to the Assistant Secretaries provided for under section 203 of this Act.

''(c) It shall be the duty and responsibility of the Assistant Secretary for Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary.''.

(2) Notwithstanding section 3345(b)(1) of title 5, United States Code, the President may designate the Director of the Office of Science immediately prior to the effective date of this Act to act in the office of the Assistant Secretary of Energy for Science until the office is filled as provided in section 209 of the Department of Energy Organization Act, as amended by paragraph (1). While so acting, such person shall receive compensation at the rate provided by this Act for the office of Assistant Secretary for Science.

(c) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking ''There shall be in the Department six Assistant Secretaries'' and inserting ''Except as provided in section 209, there shall be in the Department seven Assistant Secretaries''.

(2) It is the sense of the Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:

''(d) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(e) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

(2) Section 5314 of title 5, United States Code, is amended by striking ''Under Secretaries of Energy (2)'' and inserting ''Under Secretaries of Energy (3)''.

(3) Section 5315 of title 5, United States Code, is amended by—

(A) striking ''Director, Office of Science, Department of Energy.''; and

(B) striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (8)''.

(4) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(A) by striking ''Section 209'' and inserting ''Sec. 209'';

(B) by striking ''213.'' and inserting ''Sec. 213.'';

(C) by striking ''214.'' and inserting ''Sec. 214.'';

(D) by striking ''215.'' and inserting ''Sec. 215.''; and

(E) by striking ''216.'' and inserting ''Sec. 216.''.

SEC. 995. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) Section 3165a of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end:

''(14) Support competitive events for students, under supervision of teachers, designed to encourage student interest and knowledge in science and mathematics.''.

(b) Section 3169 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381e), as redesignated by this Act, is amended by inserting before the period: ''; and $40,000,000 for each of fiscal years 2004 through 2008.''.

SEC. 996. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

''(g)(1) In addition to other authorities granted to the Secretary under law, the Secretary may enter into other transactions on such terms as the Secretary may deem appropriate in furtherance of research, development, or demonstration functions vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

''(2)(A) The Secretary shall ensure that—

''(i) to the maximum extent the Secretary determines practicable, no transaction entered into under paragraph (1) provides for research, development, or demonstration that duplicates research, development, or demonstration being conducted under existing projects carried out by the Department;

''(ii) to the extent the Secretary determines practicable, the funds provided by the Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction; and

''(iii) to the extent the Secretary determines practicable, competitive, merit-based selection procedures shall be used when entering into transactions under paragraph (1).

''(B) A transaction authorized by paragraph (1) may be used for a research, development, or demonstration project only if the Secretary determines the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

''(3)(A) The Secretary shall protect from disclosure, including disclosure under section 552 of title 5, United States Code, for up to 5 years after the date the information is received by the Secretary—

''(i) a proposal, proposal abstract, and supporting documents submitted to the Department in a competitive or noncompetitive process having the potential for resulting in an award to the party submitting the information entering into a transaction under paragraph (1); and

''(ii) a business plan and technical information relating to a transaction authorized by paragraph (1) submitted to the Department as confidential business information.

''(B) The Secretary may protect from disclosure, for up to 5 years after the information was developed, any information developed pursuant to a transaction under paragraph (1) which developed information is of a character that it would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.

''(4) Not later than 90 days after the date of enactment of this section, the Secretary shall prescribe guidelines for using other transactions authorized by the amendment under subsection (a). Such guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.

''(5) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate and may not be delegated to any other person.''.

SEC. 997. REPORT ON RESEARCH AND DEVELOPMENT PROGRAM EVALUATION METHODOLOGIES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to investigate and report on the scientific and technical merits of any evaluation methodology currently in use or proposed for use in relation to the scientific and technical programs of the Department by the Secretary or other Federal official. Not later than 6 months after receiving the report of the National Academy, the Secretary shall submit such report to Congress, along with any other views or plans of the Secretary with respect to the future use of such evaluation methodology.

TITLE X—PERSONNEL AND TRAINING

SEC. 1001. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) WORKFORCE TRENDS.—

(1) The Secretary of Energy (in this title referred to as the ''Secretary''), in consultation with the Secretary of Labor and utilizing statistical data collected by the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy efficiency, the oil and gas industry, the nuclear power industry, the coal industry, and other industrial sectors as the Secretary may deem appropriate.

(2) The Secretary shall report to the Congress whenever the Secretary determines that significant national shortfalls of skilled technical personnel in one or more energy industry segments are forecast or have occurred.

(b) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—The Secretary, in consultation with the Secretary of Labor, may establish grant programs in the appropriate offices of the Department of Energy to enhance training of skilled technical personnel for which a shortfall is determined under subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''skilled technical personnel'' means journey and apprentice level workers who are enrolled in or have completed a State or federally recognized apprenticeship program and other skilled workers in energy technology industries.

(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 2004 through 2008, to remain available until expended.

SEC. 1002. RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.

(a) POSTDOCTORAL FELLOWSHIPS.—The Secretary shall establish a program of fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice.

(b) DISTINGUISHED SENIOR RESEARCH FELLOWSHIPS.—The Secretary shall establish a program of fellowships to allow outstanding senior researchers in energy research and development and their research groups to explore research and development topics of their choosing for a fixed period of time. Awards under this program shall be made on the basis of past scientific or technical accomplishment and promise for continued accomplishment during the period of support, which shall not be less than 3 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $40,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

SEC. 1003. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

The Secretary of Labor, in consultation with the Secretary of Energy and jointly with the electric industry and recognized employee representatives, shall develop model personnel training guidelines to support electric system reliability and safety. The training guidelines shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, and maintenance of electric generation, transmission, and distribution, including competency and certification requirements, and assessment requirements that include initial and ongoing evaluation of workers, recertification assessment procedures, and methods for examining or testing the qualification of individuals performing covered tasks; and

(2) consolidate existing training guidelines on the construction, operation, maintenance, and inspection of electric generation, transmission, and distribution facilities, such as those established by the National Electric Safety Code and other industry consensus standards.

SEC. 1004. NATIONAL CENTER ON ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall support the establishment of a National Center on Energy Management and Building Technologies, to carry out research, education, and training activities to facilitate the improvement of energy efficiency and indoor air quality in industrial, commercial, and residential buildings. The National Center shall be established by—

(1) recognized representatives of employees in the heating, ventilation, and air-conditioning industry;

(2) contractors that install and maintain heating, ventilation, and air-conditioning systems and equipment;

(3) manufacturers of heating, ventilation, and air-conditioning systems and equipment;

(4) representatives of the advanced building envelope industry, including design, windows, lighting, and insulation industries; and

(5) other entities as the Secretary may deem appropriate.

SEC. 1005. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end the following:

''(c) PROGRAMS FOR STUDENTS FROM UNDER-REPRESENTED GROUPS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from under-represented groups to pursue scientific and technical careers.''.

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and

(2) by inserting after section 3166 the following:

''SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

''(a) DEFINITIONS.—In this section:

''(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given that term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

''(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

''(3) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given that term in section 903(5) of the Energy Policy Act of 2003.

''(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 903(8) of the Energy Policy Act of 2003.

''(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

''(b) EDUCATION PARTNERSHIP.—The Secretary shall direct the Director of each National Laboratory, and may direct the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in activities that increase the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

''(c) ACTIVITIES.—An activity under subsection (b) may include—

''(1) collaborative research;

''(2) equipment transfer;

''(3) training activities conducted at a National Laboratory or science facility; and

''(4) mentoring activities conducted at a National Laboratory or science facility.

''(d) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Congress a report on the activities carried out under this section.''.

SEC. 1006. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (in this section referred to as the ''Center''), to address the need for training and educating certified operators for electric power generation plants.

(b) ROLE.—The Center shall provide both training and continuing education relating to electric power generation plant technologies and operations. The Center shall conduct training and education activities on site and through Internet-based information technologies that allow for learning at remote sites.

(c) CRITERIA FOR COMPETITIVE SELECTION.—The Secretary shall support the establishment of the Center at an institution of higher education with expertise in power plant technology and operation and with the ability to provide on-site as well as Internet-based training.

SEC. 1007. FEDERAL MINE INSPECTORS.

In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled Federal mine inspectors as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation.

TITLE XI—ELECTRICITY

SEC. 1101. DEFINITIONS.

(a) ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

''(22) 'electric utility' means any person or Federal or State agency (including any municipality) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency;''.

(b) TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

''(23) 'transmitting utility' means an entity, including any entity described in section 201(f), that owns or operates facilities used for the transmission of electric energy—

''(A) in interstate commerce; or

''(B) for the sale of electric energy at wholesale;''.

(c) ADDITIONAL DEFINITIONS.—At the end of section (3) of the Federal Power Act, add the following:

''(26) 'unregulated transmitting utility' means an entity that—

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

''(B) is an entity described in section 201(f);

''(27) 'electric cooperative' means a cooperatively owned electric utility;

''(28) 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure non-discriminatory access to such facilities; and

''(29) 'Independent System Operator' or 'ISO' means an entity used for the transmission of electric energy and which has been approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure non-discriminatory access to such facilities.''.

(d) ADDITIONAL MODIFICATIONS.—

(1) Section 210(b)(2) of the Federal Power Act (16 U.S.C. 824(b)(2)) is amended by striking ''The'' the first time it appears and inserting, ''Notwithstanding section 201(f), the''.

(2) Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by adding after ''political subdivision of a state,'' ''an electric cooperative that has financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or sells less than 4,000,000 megawatt hours of electricity per year,''.

(e) For the purposes of this title, the term ''Commission'' means the Federal Energy Regulatory Commission.

Subtitle A—Reliability

SEC. 1111. ELECTRIC RELIABILITY STANDARDS.

(a) Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''ELECTRIC RELIABILITY

''SEC. 215. (a) For the 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) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c), the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

''(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system components and the design of planned additions or modifications to such components to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such components or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the components of the bulk power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system components.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulkpower system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the portion of the system within their control.

''(6) The term 'transmission organization' means an RTO or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) 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 bulkpower system, including the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section. The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) Following the issuance of a Commission rule under subsection (b), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (d)(2), 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 and operators of the bulkpower system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking 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);

''(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; and

''(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

''(d)(1) The ERO shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

''(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the ERO with respect to the content of a proposed standard or modification to a 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, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

''(3) The ERO 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) The Commission shall remand to the ERO 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 ERO to submit to the Commission a proposed 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 to carry out this section.

''(6) The final rule adopted under subsection (b) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, 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, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

''(A) the Commission finds a conflict exists between a reliability standard and any such provision;

''(B) the Commission orders a change to such provision pursuant to section 206 of this Part; and

''(C) the ordered change 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)(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator 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 ERO files with the Commission notice 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 (which hearing may consist solely of 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 expedited procedures for such hearings.

''(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

''(4) The Commission shall establish 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) if—

''(A) the regional entity is governed by an independent board, a balanced stakeholder board, or 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 promotes effective and efficient administration of 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) The ERO shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change 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, is in the public interest, and satisfies the requirements of subsection (c).

''(g) The ERO shall conduct periodic assessments of the reliability and adequacy of the bulkpower system in North America.

''(h) The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

''(i)(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

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

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

''(4) Within 90 days of the application of the ERO 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 a reliability standard, taking into consideration any recommendation of the ERO.

''(5) The Commission, after consultation with the ERO, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the ERO, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region; whether a standard proposed to apply within the region 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 give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

''(k) The provisions of this section do not apply to Alaska or Hawaii.''.

(b) The electric reliability organization certified by the Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e) of the Federal Power Act are not departments, agencies, or instrumentalities of the United States Government.

Subtitle B—Regional Markets

SEC. 1121. IMPLEMENTATION DATE FOR PROPOSED RULEMAKING ON STANDARD MARKET DESIGN.

The Commission's proposed rulemaking entitled ''Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design'' (Docket No. RM01–12–[000) is remanded to the Commission for reconsideration. No final rule pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before July 1, 2005. Any final rule issued by the Commission pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, shall be preceded by a notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

SEC. 1122. SENSE OF THE CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of independently administered Regional Transmission Organizations (''RTO'') that have operational or functional control of facilities used for the transmission of electric energy in interstate commerce and do not own or have a financial interest in generation facilities used to supply electric energy for sale at wholesale.

SEC. 1123. PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS. .

Nothing in this Act authorizes the Commission to require a transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved organization designated to provide non-discriminatory transmission access.

SEC. 1124. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

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

(1) The term ''appropriate Federal regulatory authority'' means—

(A) with respect to a Federal power marketing agency, the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) The term ''Federal utility'' means a Federal power marketing agency or the Tennessee Valley Authority.

(3) The term ''transmission system'' means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—

(1) The appropriate Federal regulatory authority is authorized to enter into a contract, agreement, or other arrangement transferring control and use of all or part of the Federal utility's transmission system to a Regional Transmission Organization (''RTO''), as defined in the Federal Power Act. Such contract, agreement or arrangement shall be voluntary and include—

(A) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement, or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(B) provisions for monitoring and oversight by the Federal utility of the RTO fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision that may provide for the resolution of disputes through arbitration or other means with the RTO or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(C) a provision that allows the Federal utility to withdraw from the RTO and terminate the contract, agreement, or other arrangement in accordance with its terms.

(2) Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO shall serve to confer upon the Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) Any statutory provision requiring or authorizing a Federal utility to transmit, electric power, or to construct, operate, or maintain its transmission system shall not be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

SEC. 1125. REGIONAL CONSIDERATION OF COMPETITIVE WHOLESALE MARKETS.

(a) STATE REGULATORY AUTHORITIES.—Not later than 90 days after the date of enactment of this Act, the Commission shall convene regional discussions with State regulatory authorities, as defined in section 3(21) of the Federal Power Act. The regional discussions should address whether wholesale electric markets in each region are working effectively to provide reliable service to electric consumers in the region at the lowest reasonable cost. Priority should be given to discussions in regions that do not have, as of the date of enactment of this Act, a Regional Transmission Organization (''RTO'') or an Independent System Operator (''ISO''s, as defined in the Federal Power Act. The regional discussions shall consider—

(1) the need for an RTO or other organizations in the region to provide nondiscriminatory transmission access and generation interconnection;

(2) a process for regional planning of transmission facilities with State regulatory authority participation and for consideration of multi-state projects;

(3) a means for ensuring that costs for all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), and buyers of wholesale energy or capacity are reasonable and economically efficient;

(4) a means for ensuring that all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), within the region maintain their ability to use the existing transmission system without incurring unreasonable additional costs in order to expand the transmission system for new customers;

(5) whether the integrated transmission and electric power supply system can and should be operated in a manner that schedules and economically prioritizes all available electric generation resources, so as to minimize the costs of electric energy to all consumers (''economic dispatch'') and maintain system reliability;

(6) a means to provide transparent price signals to promote proper location and utilization of generation and the efficient expansion of transmission in a manner that does not result in collection of transmission rents that do not relieve congestion;

(7) eliminating in a reasonable manner, consistent with applicable State and Federal law, multiple, cumulative charges for transmission service across successive locations within a region (''pancaked rates'');

(8) resolution of seams issues with neighboring regions and inter-regional coordination;

(9) a means of providing information electronically to potential users of the transmission system;

(10) implementation of a market monitor for the region with State regulatory authority and Commission oversight and establishment of rules and procedures that ensure that State regulatory authorities are provided access to market information and that provides for expedited consideration by the Commission of any complaints concerning exercise of market power and the operation of wholesale markets;

(11) a process by which to phase-in any proposed RTO or other organization designated to provide non-discriminatory transmission access, including the formulation of transmission pricing methodologies, so as to best meet the needs of a region, and, if relevant, shall take into account the special circumstances that may be found in the Western Interconnection related to the existence of transmission congestion, the existence of significant hydroelectric capacity, the participation of unregulated transmitting utilities, and the distances between generation and load;

(12) the need to submit regional studies, within one year of enactment of this Act, to the Commission outlining possible methodologies that will ensure that the amount of energy produced in any region will be equal to at least 50 percent of the amount of energy consumed in that region by 2013;

(13) the potential value of developing a uniform system-wide average rate for transmission pricing as a way to enhance the efficiency and reliability of the transmission grid; and

(14) a timetable to meet the objectives of this section.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report to Congress on the progress made in addressing the issues in subsection (a) of this section in discussions with the States.

(c) SAVINGS.—Nothing in this section shall affect any discussions between the Commission and State or other retail regulatory authorities that are on-going prior to enactment of this Act.

Subtitle C—Improving Transmission Access and Protecting Service Obligations

SEC. 1131. SERVICE OBLIGATION SECURITY AND PARITY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SERVICE OBLIGATION SECURITY AND PARITY

''SEC. 216. (a)(1) Any load-serving entity that, as of the date of enactment of this section''—

(A) owns generation facilities, markets the output of federal generation facilities, or holds rights under one or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation, and

''(B) by reason of ownership of transmission facilities, or one or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights, or, at its election, equivalent tradeable or financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to the extent required to meet its service obligation.

''(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights or equivalent tradeable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradeable or financial transmission rights associated with the transferred service obligation. Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

''(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations.

''(b) Nothing in this section shall affect any methodology, approved by the Commission prior to the date of enactment of this section, for the allocation of transmission rights by an RTO or ISO that has been authorized by the Commission to allocate transmission rights.

''(c) Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.

''(d) Nothing in this section shall provide a basis for abrogating any contract or service

agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection.

''(e) For purposes of 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 cooperative that, directly or indirectly, through one or more additional State utilities or electric cooperatives, provides electric service to end-users.

''(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

''(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

''(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing or distributing power.

''(5) A transmitting utility that is a water district or water agency to which section 201 (f) applies and that has a right under state law to provide water shall be treated as a load-serving entity. Such water district or water agency's right to provide water should be treated as a service obligation.

''(f) Nothing in the section shall apply to an entity located in an area referred to in section 212(k)(2)(A).

''(g) This section does not authorize the Commission to take any action not otherwise within its jurisdiction under other provisions of this Act.''

SEC. 1132. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

''OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

''SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

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

''(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

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

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

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

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

''(c) The requirements of subsection (a) shall not apply to facilities used in local distribution.

''(d) If an unregulated transmitting utility exempted pursuant to subsection (b) no longer meets any of the criteria for exemption, the exemption shall expire.

''(e) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

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

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

''(h) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(i) Nothing in this Act authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved organization designated to provide non-discriminatory transmission access.''.

SEC. 1133. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''PARTICIPANT FUNDING

''SEC. 217. (a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate final regulations establishing transmission pricing policies applicable to all public utilities associated with the construction of new interstate transmission facilities and expansion, modification, or upgrading of existing interstate transmission facilities (''transmission expansion'').

''(b) CONTENTS.—Consistent with section 205, the regulation under subsection (a) shall, to the maximum extent practicable—

''(1) promote economic capital investment in efficient transmission systems;

''(2) encourage the construction and use of transmission facilities and generation facilities that reduce risk and provide just and reasonable rates to consumers;

''(3) encourage improved operation of generation and transmission facilities and deployment of transmission technologies designed to increase capacity and efficiency of existing networks; and

''(4) ensure that the costs of any transmission expansion are assigned or allocated in a fair manner, meaning that those who benefit from the transmission expansion pay an appropriate share of the associated costs.

''(c) PLAN.——

''(1) IN GENERAL.—An RTO or ISO may submit to the Commission a plan containing the criteria for determining the person or persons who will be required to pay for any transmission expansion. Nothing herein diminishes or alters the rights of individual members of an RTO or ISO under the Act.

''(2) Requirements.—The Commission shall approve a plan submitted under paragraph (1) if the Commission determines that the plan—

''(A) meets all the requirements of this Act and is consistent with the regulation promulgated under subsection (a);

''(B) specifies the method or methods by which costs may be allocated or assigned. Such methods may include, but are not limited to:

''(i) directly assigned;

''(ii) participant funded; or

''(iii) rolled into regional or sub-regional rates; and

''(C) ensures that the party or parties who pay for facilities necessary for the transmission expansion receive appropriate compensation for those facilities, considering among other factors the economic benefits associated with the transmission expansion.

''(3) DEFERENCE.—In exercising its jurisdiction under this section, the Commission shall give substantial deference to the comments filed with the Commission by State regulatory authorities, other appropriate State officials, and stakeholders of the RTO or ISO.

''(4) EFFECT OF SECTION.—Nothing in this section shall affect an RTO or ISO's allocation methodology for transmission expansion approved by the Commission prior to the date of enactment of this section.''.

Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 1141. NET METERING.

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

''(11) NET METERING.—

''(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

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

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

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

''(i) NET METERING.—In undertaking the consideration and making the determination under section 111 with respect to the standard concerning net metering established by section 111(d)(11), the term net metering service shall mean a service provided in accordance with the following standards:

''(1) An electric utility—

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

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

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

''(3) If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

''(4) If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

''(B) the owner or operator of the on-site generating facility. shall be credited for the excess kilowatt-hours generated during the

billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(5) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(6) The Commission, after consultation with State regulatory authorities and unregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability. ''(7) For purposes of this subsection—

''(A) The term 'eligible on-site generating facility' means a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

''(B) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

''(C) The term 'high efficiency system' means fuel cells or combined heat and power.

''(D) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.''.

SEC. 1142. SMART METERING.

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

''(12) TIME-BASED METERING AND COMMUNICATIONS.—

''(A) Each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance in the costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use. and cost through advanced metering and communications technology.

''(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

''(i) 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. Prices paid for energy consumed 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 energy costs by shifting usage 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 purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

''(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis and may change as often as hourly.

''(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

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

''(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive that same time-based metering and communications device and service as a retail electric consumer of the electric utility.

''(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 12 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(I) 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 Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

''(j) TIME-BASED METERING AND COMMUNICATIONS.—Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices 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 Polices Act of 1978 (16 U.S.C. 2642(a)) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting ''; and'', and by adding the following at the end thereof:

''(5) 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. 2643) 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 2003, providing the Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2005.

''(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

''(1) 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) The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two 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 through the use of demand response; and

''(C) developing plans and programs to use demand response to respond to peak demand or emergency needs.

''(3) Not later than 1 year after the date of enactment of the Energy Policy Act of 2003, 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 reviews—

''(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

''(B) existing demand response programs and time-based rate programs;

''(C) the annual resource contribution of demand resources;

''(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

''(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

''(f) 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, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated.''.

SEC. 1143. ADOPTION OF ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

''(6) Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

''(7) No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

''(8) Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

''(9) Each electric utility shall develop and implement a 10–year plan to increase the efficiency of its fossil fuel generation.''.

(b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

''(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the

Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.''.

SEC. 1144. TECHNICAL ASSISTANCE.

Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

''(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as determined appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).''.

SEC. 1145. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

''(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

''(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

''(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

''(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.

''(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

''(B) For the purposes of this paragraph, the term 'existing qualifying cogeneration facility' means a facility that—

''(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

''(ii) had filed with the Commission a notice of self-certification, self-recertification 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 subsection (n).

''(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

''(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis 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 sufficient notice to potentially 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 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, 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 obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

''(A) competing retail electric 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 appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a 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 promulgate 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.).

''(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—

''(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria 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 the 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 technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility; and

''(iii) continuing progress in the development of efficient electric energy generating technology.

''(B) The rule promulgated pursuant to section (n)(1)(A) shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in section (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

''(2) RULES FOR EXISTING FACILITIES.—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, self-recertification 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).''.

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) 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) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

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

Subtitle E—Provisions Regarding the Public Utility Holding Company Act of 1935

This subtitle may be cited as the ''Public Utility Holding Company Act of 2003.''

sec. 1151. definitions.

For the purposes of this subtitle:

(1) The term ''affiliate'' 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.

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

(3) The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

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

(6) The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

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

(8) The term ''holding company'' means—

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

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

(9) The tenn ''holding company system'' means a holding company, together with its subsidiary companies.

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

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

(12) The term ''person'' means an individual or company.

(13) The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term ''public-utility company'' means an electric utility company or a gas utility company.

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

(16) The term ''subsidiary company'' of a holding company means—

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

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

(17) The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1152. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) is repealed, effective 12 months after the date of enactment of this Act.

SEC. 1153. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

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

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

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

SEC. 1154. STATE ACCESS TO BOOKS AND RECORDS.

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

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company, and

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

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

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

SEC. 1155. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the date of enactment of this title, the Commission shall promulgate a final rule to exempt from the requirements of section 1153 any person that is a holding company, solely with respect to one or more—

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

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public-utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public-utility company, the Commission shall exempt such person or transaction from the requirements of section 1153.

SEC. 1156. AFFILIATE TRANSACTIONS.

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, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company, public utility, or natural gas company from an associate company.

SEC. 1157. APPLICABILITY.

No provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

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

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

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

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

SEC. 1158. 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. 1159. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1160. SAVINGS PROVISIONS.

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

of this Act, if that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY. Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 1161. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this title, the Commission shall—

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

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

SEC. 1162. 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. 1163. EFFECTIVE DATE.

This subtitle shall take effect 12 months after the date of enactment of this title.

SEC. 1164. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

Subtitle F—Market Transparency, Anti-Manipulation and Enforcement

SEC. 1171. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''MARKET TRANSPARENCY RULES

''SEC. 218. (a) Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public. The Commission shall have authority to obtain such information from any electric and transmitting utility, including any entity described in section 201(f).

''(b) The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security. This section shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A). In determining the information to be made available under this section and time to make such information 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) This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Any request for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission.''.

SEC. 1172. 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:

''PROHIBITION ON FILING FALSE INFORMATION

''SEC. 219. It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f)) knowingly and willfully to report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to any governmental entity with the intent to manipulate the data being compiled by such governmental entity.

''PROHIBITION ON ROUND TRIP TRADING

''SEC. 220. (a) It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f)) knowingly and willfully to enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

''(b) For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

''(3) enters into the contract or arrangement with the intent to deceptively affect reported revenues, trading volumes, or prices.''.

SEC. 1173. MARKET TRANSPARENCY.

(a) IN GENERAL.—It shall be a violation of the Commodity Exchange Act (7 U.S.C. 1 et seq.) for a person or entity to knowingly report or manipulate any information relating to the price, quantity, sale or purchase, and counter party of any agreement, contract or transaction related to natural gas or electricity in interstate commerce, which the person or entity knew to be false at the time of reporting to any governmental entity or any person or entity engaged in the business of collecting and disseminating information.

(b) CLARIFICATION OF EXISTING CFTC AUTHORITY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by designating subsection (f) as subsection (e), and adding:

''(f) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—The Commission may bring administrative or civil action as provided in this Act against any person for a violation of any provision of this section including, but not limited to, false reporting under subsection (a)(2). This applies to any action pending on or commenced after the date of enactment of the Energy Policy Act of 2003.''.

(c) FRAUD AUTHORITY.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—It shall be unlawful for any person, directly or indirectly in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement contract, or transaction subject to regulation or this Act—

''(1) to cheat or defraud or attempt to cheat or defraud any person;

''(2) to willfully make or cause to be made to any person any false report or statement, or to willfully enter or cause to be entered for any person any false record;

''(3) to willfully deceive or attempt to deceive any person by any means whatsoever; or

''(4) except as permitted in written rules of a designated contract market or registered derivative transaction execution facility which the agreement, contract, or transaction is traded and executed—

''(A) to bucket an order;

''(B) to fill an order by offsetting against 1 or more orders of another person; or

''(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of such person, to become—

''(i) the buyer with respect to any selling order of the person; or

''(ii) the seller with respect to any buying order of the person.''

(d) TECHNICAL CORRECTIONS.—Section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e) is amended by adding at the end the following:

''Any request by any Federal, State or foreign government department, agency, or political subdivision, or foreign futures authority, for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas and electricity) within the exclusive jurisdiction of the Commission shall be directed to the Commission.''.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Commission for fiscal year 2004 such sums as may be necessary to carry out the additional responsibilities and obligations of the Commission under this section.

SEC. 1174. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting ''electric utility,'' after ''Any person,''; and

(2) inserting '', transmitting utility,'' after ''licensee'' each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting ''or transmitting utility'' after ''any person'' in the first sentence.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''Any person,'' in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''five years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''; and

(2) in subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

(f) GENERAL PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''five years''; and

(2) in subsection (b), by striking ''$500'' and inserting ''$50,000''.

SEC. 1175. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) 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 second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'';

(2) striking ''60 days after'' in the third sentence and inserting ''of'';

(3) striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''; and

(4) 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.''.

Subtitle G—Consumer Protections

SEC. 1181. ELECTRIC UTILITY MERGERS.

(a) Section 203(a) of the Federal Power Act (16 U.S.C. 824(b)) is amended to read as follows:

''(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

''(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

''(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other persons, by any means whatsoever, or

''(C) purchase, acquire, or take any security of any other public utility of a value in excess of $10,000,000.

''(2) No holding company in a holding company system that includes an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with an electric utility company, a gas utility company, or a holding company in a holding company system that includes a public-utility company of value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

''(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

''(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest. In evaluating whether a transaction will be consistent with the public interest, the Commission shall consider whether the proposed transaction—

''(A) will adequately protect consumer interests,

''(B) will be consistent with competitive wholesale markets,

''(C) will not impair the ability of the Commission or the ability of a State commission having jurisdiction following the completion of the transaction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect the interests of consumers or the public,

''(D) will not impair the financial integrity of any public utility that is a party to the transaction or an associate company of any party to the transaction, and

''(E) satisfies such other criteria as the Commission considers consistent with the public interest.

''(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application.

''(6) For purposes of this subsection, the terms ''associate company'', ''electric utility company'', ''gas utility company'', ''holding company'', ''holding company system'', and ''public-utility company'' have the meaning given those terms in the Public Utility Holding Company Act of 2003.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 12 months after the date of enactment of this section.

SEC. 1182. MARKET-BASED POLICY.

Within six months of the enactment of this section, the Commission shall issue a policy statement establishing the conditions under which public utilities may charge market-based rates for the sale of electric energy subject to the jurisdiction of the Commission. Such policy statement should consider consumer protections and market power, as well as any other factors the Commission may deem necessary, to ensure that such rates are just and reasonable.

SEC. 1183. INTER-AGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

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

(1) one member each from—

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

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

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

(D) the Department of Energy, to be appointed by the Secretary of Energy; and (E) the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) STUDY AND REPORT.—

(1) STUDY.—The task force shall perform 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 effective date of this subtitle, the task force shall submit a final report of its findings under paragraph (1) to the Congress.

(B) PUBLIC COMMENT.—At least 60 days before submission of a final report to the Congress under subparagraph (A), the task force shall publish a draft report in the Federal Register to provide for public comment.

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

SEC. 1184. CONSUMER PRIVACY.

The Federal Trade Commission shall issue rules protecting the privacy of electric consumers from the disclosure of consumer information in connection with the sale or delivery of electric energy to a retail electric consumer. If 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.

SEC. 1185. UNFAIR TRADE PRACTICES.

(a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

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

(c) STATE AUTHORITY.—If 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.

SEC. 1186. DEFINITIONS.

For purposes of this subtitle—

(1) 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) the term ''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).

Subtitle H—Technical Amendments

SEC. 1191. TECHNICAL AMENDMENTS.

(a) Section 211(c) of the Federal Power Act (16 U.S.C. 824j(c)) is amended by—

(1) striking ''(2)'';

(2) striking ''(A)'' and inserting ''(1)''

(3) striking ''(B)'' and inserting ''(2)''; and

(4) striking ''termination of modification'' and inserting ''termination or modification''.

(b) Section 211(d)(1) of the Federal Power Act (16 U.S.C. 824j(d)) is amended by striking ''electric utility'' the second time it appears and inserting ''transmitting utility''.

(c) Section 315(c) of the Federal Power Act (16 U.S.C. 825n(c)) is amended by striking ''subsection'' and inserting ''section''.

DIVISION B—ENERGY TAX INCENTIVES

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the ''Energy Tax Incentives Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 101. Extension and expansion of credit for electricity produced from certain renewable resources.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Sec. 201. Alternative motor vehicle credit.
Sec. 202. Modification of credit for qualified electric vehicles.
Sec. 203. Credit for installation of alternative fueling stations.
Sec. 204. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 205. Small ethanol producer credit.
Sec. 206. Incentives for biodiesel.
Sec. 207. Alcohol fuel and biodiesel mixtures excise tax credit.
Sec. 208. Sale of gasoline and diesel fuel at duty-free sales enterprises.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 301. Credit for construction of new energy efficient home.
Sec. 302. Credit for energy efficient appliances.
Sec. 303. Credit for residential energy efficient property.
Sec. 304. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 305. Energy efficient commercial buildings deduction.
Sec. 306. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 307. Three-year applicable recovery period for depreciation of qualified water submetering devices.
Sec. 308. Energy credit for combined heat and power system property.
Sec. 309. Credit for energy efficiency improvements to existing homes.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

Sec. 401. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 411. Credit for investment in qualifying advanced clean coal technology.
Sec. 412. Credit for production from a qualifying advanced clean coal technology unit.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

Sec. 421. Treatment of persons not able to use entire credit.

TITLE V—OIL AND GAS PROVISIONS

Sec. 501. Oil and gas from marginal wells.
Sec. 502. Natural gas gathering lines treated as 7-year property.
Sec. 503. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
Sec. 504. Environmental tax credit.
Sec. 505. Determination of small refiner exception to oil depletion deduction.
Sec. 506. Marginal production income limit extension.
Sec. 507. Amortization of delay rental payments.
Sec. 508. Amortization of geological and geophysical expenditures.
Sec. 509. Extension and modification of credit for producing fuel from a nonconventional source.
Sec. 510. Natural gas distribution lines treated as 15-year property.
Sec. 511. Credit for Alaska natural gas.
Sec. 512. Certain Alaska natural gas pipeline property treated as 7-year property.
Sec. 513. Arbitrage rules not to apply to prepayments for natural gas.
Sec. 514. Extension of enhanced oil recovery credit to certain Alaska facilities.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

Sec. 601. Modifications to special rules for nuclear decommissioning costs.
Sec. 602. Treatment of certain income of cooperatives.
Sec. 603. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.

TITLE VII—ADDITIONAL PROVISIONS

Sec. 701. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 702. Study of effectiveness of certain provisions by GAO.
Sec. 703. Repeal of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general fund.
Sec. 704. Expansion of research credit.

TITLE VIII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 801. Penalty for failing to disclose reportable transaction.
Sec. 802. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 803. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 804. Disclosure of reportable transactions.
Sec. 805. Modifications to penalty for failure to register tax shelters.
Sec. 806. Modification of penalty for failure to maintain lists of investors.
Sec. 807. Penalty on promoters of tax shelters.

Subtitle B—Provisions to Discourage Corporate Expatriation

Sec. 821. Tax treatment of inverted corporate entities.
Sec. 822. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 823. Reinsurance of United States risks in foreign jurisdictions.

Subtitle C—Other Revenue Provisions

Sec. 831. Extension of Internal Revenue Service user fees.
Sec. 832. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 833. Individual expatriation to avoid tax.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 101. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—Subsection (c) of section 45 (relating to electricity produced from certain renewable resources) is amended to read as follows:

''(c) QUALIFIED ENERGY RESOURCES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy resources' means—

''(A) wind,

''(B) closed-loop biomass,

''(C) biomass (other than closed-loop biomass),

''(D) geothermal energy,

''(E) solar energy,

''(F) small irrigation power,

''(G) biosolids and sludge, and

''(H) municipal solid waste.''.

''(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

''(3) BIOMASS.—

''(A) IN GENERAL.—The term 'biomass' means—

''(i) any agricultural livestock waste nutrients, or

''(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush,

''(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

''(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

''(B) AGRICULTURAL LIVESTOCK WASTE NUTRIENTS.—

''(i) IN GENERAL.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

''(ii) AGRICULTURAL LIVESTOCK.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

''(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

''(5) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the installed capacity of which is less than 5 megawatts.

''(6) BIOSOLIDS AND SLUDGE.—The term 'biosolids and sludge' means the residue or solids removed in the treatment of commercial, industrial, or municipal wastewater.

''(7) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).''.

(b) EXTENSION AND EXPANSION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—Section 45 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) QUALIFIED FACILITIES.—For purposes of this section—

''(1) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

''(2) CLOSED-LOOP BIOMASS FACILITY.—

''(A) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

''(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

''(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

''(B) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii)—

''(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of the Energy Tax Incentives Act of 2003,

''(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

''(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

''(3) BIOMASS FACILITY.—

''(A) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which—

''(i) in the case of a facility using agricultural livestock waste nutrients, is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007, and

''(ii) in the case of any other facility, is originally placed in service before January 1, 2005.

''(B) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in subparagraph (A)(ii) which is placed in service before the date of the enactment of such Act—

''(i) subsection (a)(1) shall be applied by substituting '1.2 cents' for '1.5 cents', and

''(ii) the 5-year period beginning on January 1, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(C) CREDIT ELIGIBILITY.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

''(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

''(A) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

''(B) SPECIAL RULE.—In the case of any facility described in subparagraph (A), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(5) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

''(6) BIOSOLIDS AND SLUDGE FACILITY.—In the case of a facility using waste heat from the incineration of biosolids and sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007. Such term shall not include any property described in section 48(a)(6) the basis of which is taken into account for purposes of the energy credit under section 46.

''(7) MUNICIPAL SOLID WASTE FACILITY.—

''(A) IN GENERAL.—In the case of a facility or unit incinerating municipal solid waste to produce electricity, the term 'qualified facility' means any facility or unit owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

''(B) SPECIAL RULE.—In the case of any facility or unit described in subparagraph (A), the 5-year period beginning on the date the facility or unit was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(C) CREDIT ELIGIBILITY.—In the case of any qualified facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.''.

(2) NO CREDIT FOR CERTAIN PRODUCTION.—Section 45(e) (relating to definitions and special rules), as redesignated by paragraph (1), is amended by striking paragraph (6) and inserting the following new paragraph:

''(6) OPERATIONS INCONSISTENT WITH SOLID WASTE DISPOSAL ACT.—In the case of a qualified facility described in subsection (d)(6)(A), subsection (a) shall not apply to electricity produced at such facility during any taxable year if, during a portion of such year, there is a certification in effect by the Administrator of the Environmental Protection Agency that such facility was permitted to operate in a manner inconsistent with section 4003(d) of the Solid Waste Disposal Act (42 U.S.C. 6943(d)).''.

(3) CONFORMING AMENDMENT.—Section 45(e), as so redesignated, is amended by striking ''subsection (c)(3)(A)'' in paragraph (7)(A)(i) and inserting ''subsection (d)(1)''.

(c) CREDIT RATE FOR ELECTRICITY PRODUCED FROM NEW FACILITIES.—

(1) IN GENERAL.—Section 45(a) is amended by adding at the end the following new flush sentence:

''In the case of electricity produced after 2003 at any qualified facility originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003, paragraph (1) shall be applied by substituting '1.8 cents' for '1.5 cents'.''.

(2) NEW RATE NOT SUBJECT TO INFLATION ADJUSTMENT.—Section 45(b)(2) (relating to credit and phaseout adjustment based on inflation) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any amount which is substituted for the 1.5 cent amount in subsection (a) by reason of any provision of this section.''.

(d) ELIMINATION OF CERTAIN CREDIT REDUCTIONS.—Section 45(b)(3)(A) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting ''(other than proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103, or any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003)'' after ''project'' in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: ''This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).'', and

(5) by striking ''TAX-EXEMPT BONDS,'' in the heading and inserting ''CERTAIN''.

(e) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—Section 45(e) (relating to definitions and special rules), as redesignated by subsection (b)(1), is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

''(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(3) CREDIT RATE FOR NEW FACILITIES.—The amendments made by subsection (c) shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(4) NONAPPLICATION OF AMENDMENTS TO PREEFFECTIVE DATE POULTRY WASTE FACILITIES.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on the day before the date of the enactment of this Act) placed in service on or before such date of enactment.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A 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—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, 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) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

''(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

''If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

''If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

''If percentage of the maximum available power is:	The credit amount is:
At least 4 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

''(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

''(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

''(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

''(B) INCREASE FOR FUEL EFFICIENCY.—

''(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

''(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

''(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

''(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

''(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

''(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

''(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

''(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.

''(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

''(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

''(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

''(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2003	$12,000
2004	$10,000
2005	$8,000
2006	$6,000.

''(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

''(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

''(ii) MAXIMUM AVAILABLE POWER.—

''(I) PASSENGER AUTOMOBILE, MEDIUM DUTY PASSENGER VEHICLE, OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. 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 HYBRID MOTOR VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

''(i) which draws propulsion energy from onboard sources of stored energy which are both—

''(I) an internal combustion or heat engine using consumable fuel, and

''(II) a rechargeable energy storage system,

''(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

''(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(iii) which, in the case of a heavy duty hybrid motor vehicle, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission 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 ottocycle heavy duty engines, as applicable,

''(iv) the original use of which commences with the taxpayer,

''(v) which is acquired for use or lease by the taxpayer and not for resale, and

''(vi) which is made by a manufacturer.

''(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

''(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

''(1) ALLOWANCE OF 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.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

''(A) 40 percent, plus

''(B) 30 percent, if such vehicle—

''(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

''(ii) 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 gross vehicle weight rating, 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 2003.

''(3) INCREMENTAL 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 only capable of operating on an alternative fuel,

''(ii) the original use of which commences with the taxpayer,

''(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

''(iv) which is made by a manufacturer.

''(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

''(5) CREDIT FOR MIXED-FUEL VEHICLES.—

''(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

''(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

''(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

''(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (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) either—

''(I) has received a certificate of conformity under the Clean Air Act, or

''(II) 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 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

''(v) which is made by 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 at least 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.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term '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 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', '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 subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

''(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

''(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) 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 property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(8) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(10) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(11) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(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 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(h) TERMINATION.—This section shall not apply to any property purchased after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

''(2) in the case of any other property, December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(f)(4).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(9),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking ''10 percent of''.

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

''(A) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds—

''(i) except as provided in clause (ii) or (iii), $3,500,

''(ii) $6,000, if such vehicle is—

''(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

''(II) capable of a payload capacity of at least 1,000 pounds, and

''(iii) if such vehicle is a low-speed vehicle which conforms to Standard 500 prescribed by the Secretary of Transportation (49 C.F.R. 571.500), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

''(I) 10 percent of the manufacturer's suggested retail price of the vehicle, or

''(II) $1,500.

''(B) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

''(C) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

''(D) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.'', and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(B) Section 55(c)(2), as amended by this Act, is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

''(A) which is—

''(i) operated solely by use of a battery or battery pack, or

''(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,''.

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting ''or lease'' after ''use''.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting ''battery'' after ''qualified'' each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(C) The heading of section 30 is amended by inserting ''battery'' after ''qualified''.

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting ''battery'' after ''qualified''.

(E) Section 179A(c)(3) is amended by inserting ''battery'' before ''electric''.

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting ''**battery**'' before ''**electric**''.

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—

''(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(2) NO DEDUCTION ALLOWED UNDER SECTION 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling

property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e),''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

''In the case of any taxable year ending in—	**The applicable amount is—**
2003	30 cents
2004	40 cents
2005 and 2006	50 cents.

''(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

''(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(5) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any new qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the alternative fuel retail sales credit determined under section 40A(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

''Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) 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.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ''30,000,000'' each place it appears and inserting ''60,000,000''.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii) and subclause (II) of section 38(c)(3)(A)(ii) are each amended by inserting ''or the small ethanol producer credit'' after ''employee credit''.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

''SEC. 87. ALCOHOL FUEL CREDIT.

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol

fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 206. INCENTIVES FOR BIODIESEL.

(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 inserting after section 40A the following new section:

''SEC. 40B. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(B) CERTIFICATION FOR AGRI-BIODIESEL.—Subparagraph (A) shall apply only if the taxpayer described in paragraph (1)(A) or (2)(A) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any agri-biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such agri-biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter for use in diesel-powered engines which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates such biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the biodiesel fuels credit determined under section 40B(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year ending on or before the date of the enactment of section 40B.''.

(2)(A) Section 87, as amended by this Act, is amended—

(i) by striking ''and'' at the end of paragraph (1),

(ii) by striking the period at the end of paragraph (2) and inserting '', and'',

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

''(3) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).'', and

(iv) by striking ''**FUEL CREDIT**'' in the heading and inserting ''**AND BIODIESEL FUELS CREDITS**''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(3) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40B(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

''Sec. 40B. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 207. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

''SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

''(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

''(1) the alcohol fuel mixture credit, plus

''(2) the biodiesel mixture credit.

''(b) ALCOHOL FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the applicable amount for each gallon of alcohol used by the taxpayer in producing an alcohol fuel mixture.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

''(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

''(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' is a mixture which—

''(A) consists of alcohol and a taxable fuel, and

''(B) is sold for use or used as a fuel by the taxpayer producing the mixture.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

''(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

''(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

''(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

''(5) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2010.

''(c) BIODIESEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any qualified biodiesel mixture.

''(2) APPLICABLE AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

''(B) AMOUNT FOR AGRI-BIODIESEL.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

''(ii) CERTIFICATION FOR AGRI-BIODIESEL.—Clause (i) shall apply only if the taxpayer described in paragraph (1) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

''(3) DEFINITIONS.—Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

''(4) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2005.

''(d) MIXTURE NOT USED AS A FUEL, ETC.—

''(1) IMPOSITION OF TAX.—If—

''(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or qualified biodiesel mixture, respectively, and

''(B) any person—

''(i) separates such alcohol or biodiesel from the mixture, or

''(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

''(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.''.

(b) REGISTRATION REQUIREMENT.—Section 4101(a) (relating to registration) is amended by inserting ''and every person producing biodiesel (as defined in section 40B(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))'' after ''4091''.

(c) CONFORMING AMENDMENTS.—

(1) Section 40(c) is amended by striking ''section 4081(c), or section 4091(c)'' and inserting ''section 4091(c), section 6426, section 6427(e), or section 6427(f)''.

(2) Section 40(d)(4)(B) is amended by striking ''or 4081(c)''.

(3) Section 40(e)(1) is amended—

(A) by striking ''2007'' in subparagraph (A) and inserting ''2010'', and

(B) by striking ''2008'' in subparagraph (B) and inserting ''2011''.

(4) Section 40(h) is amended—

(A) by striking ''2007'' in paragraph (1) and inserting ''2010'', and

(B) by striking '', 2006, or 2007'' in the table contained in paragraph (2) and inserting ''through 2010''.

(5) Section 4041(b)(2)(B) is amended by striking ''a substance other than petroleum or natural gas'' and inserting ''coal (including peat)''.

(6) Paragraph (1) of section 4041(k) is amended to read as follows:

''(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 6426(b)(4)(A)), the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(c).''.

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

''(2) GASOLINE.—The term 'gasoline'—

''(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)) or a denaturant of alcohol (as defined in section 6426(b)(4)(A)), and

''(B) includes, to the extent prescribed in regulations—

''(i) any gasoline blend stock, and

''(ii) any product commonly used as an additive in gasoline.

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.''.

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

''(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

''(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

''(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40B(d)(1)) or agri-biodiesel (as defined in section 40B(d)(2)) which is not in a mixture with a taxable fuel (as defined in section 4083(a)(1))—

''(A) is used by any person as a fuel in a trade or business, or

''(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40B(b)(2)) with respect to such fuel.

''(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

''(4) TERMINATION.—This subsection shall not apply with respect to—

''(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

''(B) any qualified biodiesel mixture (within the meaning of section 6426(c)(1)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2005.''.

(10) Subsection (f) of section 6427 is amended to read as follows:

''(f) AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

''(1) IN GENERAL.—Except as provided in subsection (k), if any aviation fuel on which tax was imposed by section 4091 at the regular tax rate is used by any person in producing a mixture described in section 4091(c)(1)(A) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

''(2) DEFINITIONS.—For purposes of paragraph (1)—

''(A) REGULAR TAX RATE.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

''(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any aviation fuel with respect to which an amount is payable under subsection (d) or (l).

''(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.''.

(11) Paragraphs (1) and (2) of section 6427(i) are amended by inserting ''(f),'' after ''(d),''.

(12) Section 6427(i)(3) is amended—

(A) by striking ''subsection (f)'' both places it appears in subparagraph (A) and inserting ''subsection (e)(1)'',

(B) by striking ''gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))'' in subparagraph (A) and inserting ''a mixture described in section 6426'',

(C) by striking ''subsection (f)(1)'' in subparagraph (B) and inserting ''subsection (e)(1)'',

(D) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(E) by striking ''ALCOHOL MIXTURE'' in the heading and inserting ''ALCOHOL FUEL AND BIODIESEL MIXTURE''.

(13) Section 6427(o) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

''(1) any tax is imposed by section 4081, and'',

(B) by striking ''such gasohol'' in paragraph (2) and inserting ''the alcohol fuel mixture (as defined in section 6426(b)(3))'',

(C) by striking ''gasohol'' both places it appears in the matter following paragraph (2) and inserting ''alcohol fuel mixture'', and

(D) by striking ''GASOHOL'' in the heading and inserting ''ALCOHOL FUEL MIXTURE''.

(14) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: ''For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.''.

(15) Section 9503(b)(4) is amended—

(A) by adding ''or'' at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(16) Section 9503(c)(2)(A)(i)(III) is amended by inserting ''(other than subsection (e) thereof)'' after ''section 6427''.

(17) Section 9503(e)(2) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(18) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

''Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (b)(12)(D)) not later than September 30, 2003.

SEC. 208. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.''.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 301. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

''(i) in the case of a 30-percent home, $1,000, and

''(ii) in the case of a 50-percent home, $2,000.

''(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

''(i) 30-PERCENT HOME.—The term '30-percent home' means—

''(I) a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a qualifying new home constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment, or

''(II) in the case of a qualifying new home which is a manufactured home, a home which meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

''(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which would be described in clause (i)(I) if 50 percent were substituted for 30 percent.

''(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—The amount of the credit otherwise allowable for the taxable year with respect to a qualifying new home under clause (i) or (ii) of subparagraph (A) shall be reduced by the sum of the credits allowed under subsection (a) to any taxpayer with respect to the home for all preceding taxable years.

''(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy credit (as determined under section 48(a)), and

''(B) expenditures taken into account under section 25D, 47, or 48(a) shall not be taken into account under this section.

''(3) PROVIDER LIMITATION.—Any eligible contractor who directly or indirectly provides the guarantee of energy savings under a guarantee-based method of certification described in subsection (d)(1)(D) shall not be eligible to receive the credit allowed by this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

''(A) the person who constructed the qualifying new home, or

''(B) in the case of a qualifying new home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualifying new home, such term means the person designated as such by the owner of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system which can, individually or in combination with other components, meet the requirements of this section.

''(3) QUALIFYING NEW HOME.—

''(A) IN GENERAL.—The term 'qualifying new home' means a dwelling—

''(i) located in the United States,

''(ii) the construction of which is substantially completed after the date of the enactment of this section, and

''(iii) the first use of which after construction is as a principal residence (within the meaning of section 121).

''(B) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(d) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method, a performance-based method, or a guarantee-based method, or, in the case of a qualifying new home which is a manufactured home, by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

''(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance to properties which qualify under subparagraph (C).

''(C) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a new home—

''(I) heated by the same fuel type, and

''(II) constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

''(D) GUARANTEE-BASED METHOD.—

''(i) IN GENERAL.—A guarantee-based method is a method which guarantees in writing to the homeowner energy savings of either 30 percent or 50 percent over the 2000 International Energy Conservation Code for heating and cooling costs. The guarantee shall be provided for a minimum of 2 years and shall fully reimburse the homeowner any heating and cooling costs in excess of the guaranteed amount.

''(ii) COMPUTER SOFTWARE.—Computer software shall be selected by the provider to support the guarantee-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

''(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

''(A) in the case of a component-based method, a local building regulatory authority, a utility, or a home energy rating organization,

''(B) in the case of a performance-based method or a guarantee-based method, an individual recognized by an organization designated by the Secretary for such purposes, or

''(C) in the case of a qualifying new home which is a manufactured home, a manufactured home primary inspection agency.

''(3) FORM.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and

''(i) in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home, and

''(ii) in the case of a qualifying new home which is a manufactured home, accompanied by such documentation as required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

''(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and solar heat gain coefficient for windows, skylights, and doors, labeled annual fuel utilization efficiency (AFUE) ratings for furnaces and boilers, labeled heating seasonal performance factor (HSPF) ratings for electric heat pumps, and labeled seasonal energy efficiency ratio (SEER) ratings for air conditioners.

''(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based and guarantee-based certification methods, the Secretary shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

''(e) APPLICATION.—Subsection (a) shall apply to qualifying new homes the construction of which is substantially completed after the date of the enactment of this section and purchased during the period beginning on such date and ending on—

''(1) in the case of any 30-percent home, December 31, 2005, and

''(2) in the case of any 50-percent home, December 31, 2007.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the new energy efficient home credit determined under section 45G(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).''.

(d) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of such section.''.

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits), as amended by this Act, is amended by striking ''and'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', and'', and by adding after paragraph (11) the following new paragraph:

''(12) the new energy efficient home credit determined under section 45G(a).''.

(f) 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. 45G. New energy efficient home credit.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to homes the construction of which is substantially completed after the date of the enactment of this Act.

SEC. 302. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(2) AMOUNT.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

''(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

''(1) APPLICABLE AMOUNT.—The applicable amount is—

''(A) $50, in the case of—

''(i) a clothes washer which is manufactured with at least a 1.42 MEF, or

''(ii) a refrigerator which consumes at least 10 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001,

''(B) $100, in the case of—

''(i) a clothes washer which is manufactured with at least a 1.50 MEF, or

''(ii) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator manufactured after 2006) less kilowatt hours per year than such energy conservation standards, and

''(C) $150, in the case of a refrigerator manufactured before 2007 which consumes at least 20 percent less kilowatt hours per year than such energy conservation standards.

''(2) ELIGIBLE PRODUCTION.—

''(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

''(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

''(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2000, 2001, and 2002.

''(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

''(i) clothes washers described in paragraph (1)(A)(i),

''(ii) clothes washers described in paragraph (1)(B)(i),

''(iii) refrigerators described in paragraph (1)(A)(ii),

''(iv) refrigerators described in paragraph (1)(B)(ii), and

''(v) refrigerators described in paragraph (1)(C).

''(c) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $60,000,000, of which not more than $30,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsection (b)(1)(A).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

''(B) a refrigerator described in subparagraph (A)(ii), (B)(ii), or (C) of subsection (b)(1).

''(2) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

''(3) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

''(e) SPECIAL RULES.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

''(2) AGGREGATION RULES.—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 1 person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply—

''(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

''(2) with respect to all other qualified energy efficient appliances produced after December 31, 2007.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the energy efficient appliance credit determined under section 45H(a).''.

(c) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45H. Energy efficient appliance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 303. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

''(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

''(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

''(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

''(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

''(A) $2,000 for property described in paragraph (1), (2), or (5) of subsection (d),

''(B) $500 for each 0.5 kilowatt of capacity of property described in subsection (d)(4), and

''(C) for property described in subsection (d)(6)—

''(i) $150 for each electric heat pump water heater,

''(ii) $125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

''(iii) $150 for each advanced natural gas, oil, or propane water heater,

''(iv) $50 for each natural gas, oil, or propane water heater,

''(v) $50 for an advanced main air circulating fan,

''(vi) $150 for each advanced combination space and water heating system,

''(vii) $50 for each combination space and water heating system, and

''(viii) $250 for each geothermal heat pump.

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER) for property described in subsection (d)(6)(B)(viii)—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

''(iii) are in effect at the time of the acquisition of the property.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property 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.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) 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(a)(4)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(ii) an advanced natural gas, oil, propane furnace, or hot water boiler which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

''(iii) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

''(iv) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

''(v) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

''(vi) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

''(vii) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, and

''(viii) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

''(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

''(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined 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.

''(2) 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.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure 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.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(6) 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 48(a)(5)(C)).

''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)'' and inserting ''subsection (b)(3)''.

(B) Section 23(b)(4)(B) is amended by inserting ''and section 25C'' after ''this section''.

(C) Section 24(b)(3)(B) is amended by striking ''23 and 25B'' and inserting ''23, 25B, and 25C''.

(D) Section 25(e)(1)(C) is amended by inserting ''25C,'' after ''25B,''.

(E) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25C''.

(F) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(G) Section 904(h) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(H) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking ''section 1400C'' and inserting ''sections 25C and 1400C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting '', 25C,'' after ''sections 23''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following new paragraph:

''(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ''and section 25C'' after ''this section''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Residential energy efficient property.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 304. 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 adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property or qualified microturbine property,''.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48(a) (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED FUEL CELL PROPERTY.—

''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

''(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

''(II) has an electricity-only generation efficiency greater than 30 percent.

''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

''(iv) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.

''(B) QUALIFIED MICROTURBINE PROPERTY.—

''(i) IN GENERAL.—The term 'qualified microturbine property' means a stationary microturbine power plant which—

''(I) has a capacity of less than 2,000 kilowatts, and

''(II) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—The term 'qualified microturbine property' shall not include any property placed in service after December 31, 2006.''.

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, 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 day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 305. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

''SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year in which a building is placed in service by a taxpayer, an amount equal to the energy efficient commercial building property expenditures made by such taxpayer with respect to the construction or reconstruction of such building for the taxable year or any preceding taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building with respect to which the expenditures are made.

''(c) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means amounts paid or incurred for energy efficient property installed on or in connection with the construction or reconstruction of a building—

''(A) for which depreciation is allowable under section 167,

''(B) which is located in the United States, and

''(C) which is the type of structure to which the Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air

Conditioning Engineers and the Illuminating Engineering Society of North America is applicable.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(2) ENERGY EFFICIENT PROPERTY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'energy efficient property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which meets the minimum requirements of Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, using methods of calculation described in subparagraph (B) and certified by qualified individuals as provided under paragraph (5).

''(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power costs.

''(C) COMPUTER SOFTWARE.—

''(i) IN GENERAL.—Any calculation described in subparagraph (B) shall be prepared by qualified computer software.

''(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

''(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power costs as required by the Secretary,

''(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

''(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property expenditures made by a public entity with respect to the construction or reconstruction of a public building, the Secretary shall promulgate regulations under which the value of the deduction with respect to such expenditures which would be allowable to the public entity under this section (determined without regard to the tax-exempt status of such entity) may be allocated to the person primarily responsible for designing the energy efficient property. Such person shall be treated as the taxpayer for purposes of this section.

''(4) NOTICE TO OWNER.—Any qualified individual providing a certification under paragraph (5) shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

''(5) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings by qualified individuals described in subparagraph (B). Such procedures shall be—

''(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards, and

''(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the credit under this section regardless of whether such building uses a gas or oil furnace or boiler or an electric heat pump.

''(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy ratings organization, a local building regulatory authority, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this paragraph.

''(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(d) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(e) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(f) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with a building the construction of which is not completed on or before December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 179B(d).''.

(2) Section 1245(a) is amended by inserting ''179B,'' after ''179A,'' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence ''or by section 179B''.

(4) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 179B.''.

(5) Section 312(k)(3)(B) is amended by striking ''or 179A'' each place it appears in the heading and text and inserting '', 179A, or 179B''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

''Sec. 179B. Energy efficient commercial buildings deduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 306. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified energy management device.''.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

''(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—

''(A) IN GENERAL.—The term 'qualified energy management device' means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term 'energy management device' means any meter or metering device which is used by the taxpayer—

''(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

''(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 307. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) any qualified water submetering device.''.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

''(16) QUALIFIED WATER SUBMETERING DEVICE.—

''(A) IN GENERAL.—The term 'qualified water submetering device' means any water submetering device which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier with respect to the unit for which the device is placed in service.

''(B) WATER SUBMETERING DEVICE.—For purposes of this paragraph, the term 'water submetering device' means any submetering device which is used by the taxpayer—

''(i) to measure and record water usage data, and

''(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

''(C) ELIGIBLE RESUPPLIER.—For purposes of subparagraph (A), the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 308. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking ''or'' at the end of clause (ii), by adding ''or'' at the end of clause (iii), and by inserting after clause (iii) the following new clause:

''(iv) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48(a) (relating to energy credit), as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by

inserting after paragraph (4) the following new paragraph:

''(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

''(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(iii) which produces—

''(I) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

''(v) which is placed in service before January 1, 2007.

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) PUBLIC UTILITY PROPERTY.—

''(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under this subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

''(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (i), (iii), and (iv) thereof.

''(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed a credit under this section for a combined heat and power system property which has a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.''.

(c) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 309. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

''SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

''(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 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATION.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the latest prescriptive criteria for such component in the International Energy Conservation Code approved by the Department of Energy before the installation of such component, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

''(1) such component or combination of measures is installed in or on a dwelling which—

''(A) is located in the United States,

''(B) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

''(C) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component or combination of measures commences with the taxpayer, and

''(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—

''(1) METHODS OF CERTIFICATION.—

''(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

''(B) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

''(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

''(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

''(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

''(A) in the case of the method described in paragraph (1)(A), a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

''(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

''(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined 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.

''(2) 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 paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) TERMINATION.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended—

(A) by striking ''The credit'' and inserting the following:

''(1) DOLLAR AMOUNT.—The credit'', and

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

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)'' and inserting ''subsection (b)(2)''.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(E) Section 25B(g)(2), as amended by this Act, is amended by striking ''23 and 25C'' and inserting ''23, 25C, and 25D''.

(F) Section 26(a)(1), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(G) Section 904(h), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(H) Section 1400C(d), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting '', 25D,'' after ''sections 25C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ''; and'', and by adding at the end the following new paragraph:

''(33) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Energy efficiency improvements to existing homes.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 401. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A 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. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to—

''(1) the applicable amount of clean coal technology production credit, multiplied by

''(2) the applicable percentage of the sum of—

''(A) the kilowatt hours of electricity, plus

''(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

''(2) INFLATION ADJUSTMENT.—For calendar years after 2004, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

''(A) on the date of the enactment of this section—

''(i) was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit, and

''(ii) had a nameplate capacity rating of not more than 300 megawatts,

''(B) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

''(C) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

''(D) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

''(2) CLEAN COAL TECHNOLOGY UNIT.—The term 'clean coal technology unit' means a unit which—

''(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology, for the production of electricity,

''(B) uses an input of at least 75 percent coal to produce at least 50 percent of its thermal output as electricity,

''(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

''(D) has a maximum design net heat rate of not more than 9,500, and

''(E) meets the pollution control requirements of paragraph (3).

''(3) POLLUTION CONTROL REQUIREMENTS.—

''(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

''(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

''(I) subparagraph (B), or

''(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

''(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

''(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

''(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

''(ii) in the case of nitrogen oxide emissions—

''(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

''(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

''(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

''(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

''(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels, and chemicals output from such unit (determined without regard to such unit's co-generation of steam),

''(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate × [1− {((12,000-design coal heat content, Btu per pound)/1,000) × 0.013}],

''(C) shall be corrected for the site reference conditions of—

''(i) elevation above sea level of 500 feet,

''(ii) air pressure of 14.4 pounds per square inch absolute (psia),

''(iii) temperature, dry bulb of 63°F,

''(iv) temperature, wet bulb of 54°F, and

''(v) relative humidity of 55 percent, and

''(D) if carbon capture controls have been installed with respect to any qualifying unit and such controls remove at least 50 percent of the unit's carbon dioxide emissions, shall be adjusted up to the design heat rate level which would have resulted without the installation of such controls.

''(5) HHV.—The term 'HHV' means higher heating value.

''(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.

''(7) INFLATION ADJUSTMENT FACTOR.—

''(A) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

''(B) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

''(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

''(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of this section, the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection,

''(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the megawatt capacity allocated to any unit under this subsection does not exceed 300 megawatts and the combined megawatt capacity allocated to all such units when all such units are placed in service during the 10-year period described in subsection (d)(1)(B), does not exceed 4,000 megawatts,

''(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

''(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance, be placed in service as soon as possible, and

''(ii) to allocate capacity to taxpayers which have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

''(I) a site,

''(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

''(III) filings for all necessary preconstruction approvals,

''(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

''(V) such other factors that the Secretary determines are appropriate,

''(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

''(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units which become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

''(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the qualifying clean coal technology production credit determined under section 45I(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45I. Credit for production from a qualifying clean coal technology unit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 411. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the qualifying advanced clean coal technology unit credit.''.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

''(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

''(A)(i) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

''(ii) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

''(B) which is depreciable under section 167,

''(C) which has a useful life of not less than 4 years,

''(D) which is located in the United States,

''(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

''(F) which is not a qualifying clean coal technology unit, and

''(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

''(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

''(1) IN GENERAL.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

''(A) is—

''(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

''(ii) an eligible pressurized fluidized bed combustion technology unit,

''(iii) an eligible integrated gasification combined cycle technology unit, or

''(iv) an eligible other technology unit, and

''(B) meets the carbon emission rate requirements of paragraph (6).

''(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

''(B) has a design net heat rate of not more than 8,500 (8,900 in the case of units placed in service before 2009).

''(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

''(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013).

''(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

''(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013), and

''(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2009, and 40.2 percent in the case of units placed in service after 2008 and before 2013).

''(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

''(6) CARBON EMISSION RATE REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

''(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

''(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

''(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

''(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

''(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

''(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

''(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

''(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 750 megawatts in the case of units placed in service before 2009), and

''(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection and section 45J,

''(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

''(C) to provide a certification process described in section 45I(e)(3)(C),

''(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

''(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

''(4) SELECTION CRITERIA.—For purposes of this subsection, the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

''(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

''(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(ii), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

''(h) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the

term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.''.

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following rules shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction the numerator of which is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and the denominator of which is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.''.

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).''.

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting '', (2), and (6)''.

(3) Section 50(c) is amended by adding at the end the following new paragraph:

''(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.''.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

''Sec. 48A. Qualifying advanced clean coal technology unit credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 412. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

''(1) the applicable amount of advanced clean coal technology production credit, multiplied by

''(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

''(A) the kilowatt hours of electricity, plus

''(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

''(b) APPLICABLE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

''(A) If the qualifying advanced clean coal technology unit is producing electricity only:

''(i) In the case of a unit originally placed in service before 2009, if—

''The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

''(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

''The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,500	$.0075	$.0055.

''(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

''The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

''(B) If the qualifying advanced clean coal technology unit is producing fuel or chemicals:

''(i) In the case of a unit originally placed in service before 2009, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.2 percent	$.0060	$.0038
Less than 40.2 but not less than 39 percent	$.0025	$.0010
Less than 39 but not less than 38.4 percent	$.0010	$.0010.

''(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	$.0105	$.0090
Less than 43.9 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

''(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 46.3 percent	$.0140	$.0115
Less than 46.3 but not less than 44.2 percent ...	$.0120	$.0090.

''(2) SPECIAL RULE FOR UNITS QUALIFYING FOR GREATER APPLICABLE AMOUNT WHEN PLACED IN SERVICE.—If, at the time a qualifying advanced clean coal technology unit is placed in service, production from the unit would be entitled to a greater applicable amount if such unit had been placed in service at a later date, the applicable amount for such unit shall be such greater amount.

''(c) INFLATION ADJUSTMENT.—For calendar years after 2004, each dollar amount in subsection (b)(1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 421. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

''(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

''(1) ALLOWANCE OF CREDITS.—

''(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

''(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(ii) an organization described in section 1381(a)(2)(C),

''(iii) a public utility (as defined in section 136(c)(2)(B)),

''(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

''(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

''(vi) the Tennessee Valley Authority.

''(2) TRANSFER OF CREDIT.—

''(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

''(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

''(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

''(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

''(4) USE BY TVA.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

''(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

''(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

''(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

''(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, transfers among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(B) shall be treated as transfers between unrelated parties.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE V—OIL AND GAS PROVISIONS

SEC. 501. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

''(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

''(I) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

''(II) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for

any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or domestic natural gas which is produced from a qualified marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) NONCOMPLIANCE WITH POLLUTION LAWS.—Production from any well during any period in which such well is not in compliance with applicable Federal pollution prevention, control, and permit requirements shall not be treated as qualified crude oil production or qualified natural gas production.

''(4) DEFINITIONS.—

''(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(D) DOMESTIC NATURAL GAS.—The term 'domestic natural gas' does not include Alaska natural gas (as defined in section 45M(c)(1)).

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than 1 owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting '', plus'', and by adding at the end the following new paragraph:

''(22) the marginal oil and gas well production credit determined under section 45K(a).''.

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of such section.''.

(d) COORDINATION WITH SECTION 29.—Section 29(a) (relating to allowance of credit) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45K. Credit for producing oil and gas from marginal wells.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 502. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer, or

''(B) any other pipe, equipment, or appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

''(C)(ii) ..... 10''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 503. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

''SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

''(a) TREATMENT AS EXPENSE.—

''(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

''(2) LIMITATION.—

''(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection for any taxable year with respect to any facility may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year with respect to such facility.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

''(ii) REDUCED PERCENTAGE.—In the case of any facility with average daily refinery runs or average retained production for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (but not below zero) by the product of—

''(I) such percentage (before the application of this clause), and

''(II) the ratio of such excess to 50,000 barrels.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means any costs which—

''(A) are otherwise chargeable to capital account, and

''(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

''(2) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

''(A) which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year, and

''(B) the average daily refinery run or average retained production of which for all facilities of the taxpayer for the 1-year period ending on the date of the enactment of this section did not exceed 410,000 barrels.

''(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to

amounts which are treated as expenses under this section.

''(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(2) Section 263A(c)(3) is amended by inserting ''179C,'' after ''section''.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179B'' each place it appears in the heading and text and inserting ''179B, or 179C''.

(4) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', and'', and by adding at the end the following new paragraph:

''(34) to the extent provided in section 179C(d).''.

(5) Section 1245(a), as amended by this Act, is amended by inserting ''179C,'' after ''179B,'' both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

''Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 504. ENVIRONMENTAL TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45L. ENVIRONMENTAL TAX CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of low-sulfur diesel fuel produced at a facility by such small business refiner during such taxable year.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) with respect to such facility for any preceding year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

''(B) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179C(a)(2)(B)(ii).

''(c) DEFINITIONS.—For purposes of this section—

''(1) IN GENERAL.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179C.

''(2) LOW-SULFUR DIESEL FUEL.—The term 'low-sulfur diesel fuel' means diesel fuel containing not more than 15 parts per million of sulfur.

''(3) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

''(4) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

''(d) CERTIFICATION.—

''(1) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which a credit is allowed under this section with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

''(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

''(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

''(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

''(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the period described in paragraph (3) ends with respect to the taxpayer, and

''(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(f) COOPERATIVE ORGANIZATIONS.—

''(1) APPORTIONMENT OF CREDIT.—

''(A) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(B) FORM AND EFFECT OF ELECTION.—An election under subparagraph (A) 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.

''(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

''(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

''(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

''(3) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(A) such reduction, over

''(B) the amount not apportioned to such patrons under paragraph (1) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting '', plus'', and by adding at the end the following new paragraph:

''(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding at the end the following new subsection:

''(e) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45L. Environmental tax credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 505. DETERMINATION OF SMALL REFINER EXCEPTION 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 taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 506. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''2004'' and inserting ''2007''.

SEC. 507. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

''(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 mid-point 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 payments.

''(4) TREATMENT UPON ABANDONMENT.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

''(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) 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.

SEC. 508. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 167 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) 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 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

''(2) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''167(h), 167(i),'' after ''under section''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 509. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

''(h) EXTENSION FOR OTHER FACILITIES.—

''(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2007, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility before the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

''(2) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

''(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 3-year period beginning on the date such facility is placed in service.

''(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

''(3) WELLS PRODUCING VISCOUS OIL.—

''(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such well before the close of the 3-year period beginning on the date such well is placed in service.

''(B) VISCOUS OIL.—The term 'viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

''(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

''(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

''(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(2)(A) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

''(4) FACILITIES PRODUCING REFINED COAL.—

''(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

''(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

''(C) COVERED FACILITIES.—

''(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology which results in—

''(I) a qualified emission reduction, and

''(II) a qualified enhanced value.

''(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

''(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

''(iv) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNITS EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology unit (as defined in section 48A(b)).

''(5) COALMINE GAS.—

''(A) IN GENERAL.—This section shall apply to coalmine gas—

''(i) captured or extracted by the taxpayer during the period beginning after the date of the enactment of this subsection and ending before January 1, 2007, and

''(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such period.

''(B) COALMINE GAS.—For purposes of this paragraph, the term 'coalmine gas' means any methane gas which is—

''(i) liberated during or as a result of coal mining operations, or

''(ii) extracted up to 10 years in advance of coal mining operations as part of a specific plan to mine a coal deposit.

''(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine gas which is captured in advance of coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed.

''(D) NONCOMPLIANCE WITH POLLUTION LAWS.—This paragraph shall not apply to the capture or extraction of coalmine gas from coal mining operations with respect to any period in which such coal mining operations are not in compliance with applicable State and Federal pollution prevention, control, and permit requirements.

''(6) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

''(A) FUELS TREATED AS QUALIFIED FUELS.—Any fuel described in paragraph (2), (3), (4), or (5) shall be treated as a qualified fuel for purposes of this section.

''(B) DAILY LIMIT.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

''(C) CREDIT AMOUNT.—The dollar amount applicable under subsection (a)(1) shall be $3 (and the inflation adjustment under subsection (b)(2) shall not apply to such amount).''.

(b) CLARIFICATION OF PLACED IN SERVICE DATE FOR CERTAIN LANDFILL GAS FACILITIES.—Section 29(d) (relating to other definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(10) CLARIFICATION OF PLACED IN SERVICE DATE FOR CERTAIN LANDFILL GAS FACILITIES.—

''(A) IN GENERAL.—In the case of a landfill placed in service on or before the date of the enactment of this paragraph—

''(i) a facility for producing qualified fuel from such landfill shall include all wells,

pipes, and related components used to collect landfill gas, and

''(ii) production of landfill gas from such landfill attributable to wells, pipes, and related components placed in service after such date of enactment shall be treated as produced from a facility placed in service on the date such wells, pipes, and related components were placed in service.

''(B) LANDFILL GAS.—The term 'landfill gas' means gas described in subsection (c)(1)(B)(ii) and derived from the biodegradation of municipal solid waste.''.

(c) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Section 29(f)(2) (relating to application of section) is amended by inserting ''(January 1, 2006, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

(d) STUDY OF COALBED METHANE.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study regarding the effect of section 29 of the Internal Revenue Code of 1986 on the production of coalbed methane.

(2) CONTENTS OF STUDY.—The study under paragraph (1) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coalbed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coalbed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coalbed methane which has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coalbed methane produced annually and in the aggregate since such enactment.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) EXISTING FACILITIES.—The amendments made by subsection (c) shall apply to fuel sold after December 31, 2002, in taxable years ending after such date.

SEC. 510. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting '', and'', and by adding at the end the following new clause:

''(iv) any natural gas distribution line.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

''(E)(iv) ..... 20''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 511. CREDIT FOR ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45M. ALASKA NATURAL GAS.

''(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) Alaska natural gas the production of which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is $0.52 per 1,000,000 Btu of Alaska natural gas.

''(2) REDUCTION AS GAS PRICES INCREASE.—

''(A) IN GENERAL.—The dollar amount under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $0.83, bears to

''(ii) $0.52.

''(B) APPLICABLE REFERENCE PRICE.—For purposes of this paragraph—

''(i) IN GENERAL.—The applicable reference price for any calendar month in a taxable year is the reference price for the calendar month in which production occurs.

''(ii) REFERENCE PRICE.—The term 'reference price' means, with respect to any calendar month, a published market price for natural gas in United States dollars per 1,000,000 Btu (reduced by any gas transportation costs and gas processing costs as determined by the appropriate national regulatory body for natural gas transportation) as determined under regulations by the Secretary.

''(C) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in paragraph (1) and subparagraph (A) of this paragraph shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

''(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

''(I) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

''(II) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

''(c) ALASKA NATURAL GAS.—For purposes of this section—

''(1) IN GENERAL.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(18) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

''(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

''(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

''(2) NATURAL GAS.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—

''(A) IN GENERAL.—In the case of a well in which there is more than 1 person or entity—

''(i) entitled to production of Alaska natural gas, or

''(ii) at the election of such person or entity, entitled to the value of production as either an operating interest owner or a royalty interest owner,

the portion of such production attributable to such person or entity shall be determined on the basis of the ratio which the person's or entity's interest in the production or the value of production bears to the aggregate of the interests of all such persons or entities. Production otherwise attributable to a United States tax-exempt person or entity by reason of a royalty interest shall be attributable to such person or entity with respect to whom royalty-in-value production remains or to whom royalty-in-kind production is sold.

''(B) PARTNERSHIP PROPERTIES.—In the case of a partnership, for purposes of applying subparagraph (A), production shall be attributable to its partners based on each partner's distributive share of Alaska natural gas which is produced from partnership properties and attributable to the partnership or its partners under subparagraph (A).

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas during the period—

''(1) beginning with the later of—

''(A) January 1, 2010, or

''(B) the initial date for the interstate transportation of such Alaska natural gas, and

''(2) ending with the date which is 25 years after the date described in paragraph (1).''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) The Alaska natural gas credit determined under section 45M(a).''.

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

''(A) IN GENERAL.—In the case of the Alaska natural gas credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

''(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).''.

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting ''or the Alaska natural gas credit'' after ''producer credit''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45M. Alaska natural gas.''.

SEC. 512. CERTAIN ALASKA NATURAL GAS PIPELINE PROPERTY TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

''(iii) any Alaska natural gas pipeline, and''.

(b) ALASKA NATURAL GAS PIPELINE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(18) ALASKA NATURAL GAS PIPELINE.—The term 'Alaska natural gas pipeline' means the natural gas pipeline system located in the State of Alaska which—

''(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

''(B) is—

''(i) placed in service after December 31, 2012, or

''(ii) treated as placed in service on January 1, 2013, if the taxpayer who places such system in service before January 1, 2013, elects such treatment.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(ii) the following new item:

''(C)(iii) ..... 10''.

''(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

SEC. 513. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Section 148(b) (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

''(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

''(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

''(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by or for a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract for the utility during any year does not exceed the sum of—

''(i) the annual average amount 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)—

''(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.—

''(i) NEW BUSINESS CUSTOMERS.—If—

''(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for use by a business at a property within the service area of such utility, and

''(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

''(ii) OVERALL LIMITATION.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

''(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

''(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

''(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

''(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

''(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

''(ii) APPLICABLE SHARE.—For purposes of clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

''(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to 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) by customers of such utility who are located within the service area of such utility, and

''(ii) the amount of natural gas used to transport such natural gas to the utility.

''(H) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

''(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

''(i) any area throughout which such utility provided at all times during the testing period—

''(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

''(II) in the case of an electric utility, electricity distribution services,

''(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

''(iii) any area recognized as the service area of such utility under State or Federal law.''.

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (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 148(b)(4)).''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 514. EXTENSION OF ENHANCED OIL RECOVERY CREDIT TO CERTAIN ALASKA FACILITIES.

(a) IN GENERAL.—Section 43(c)(1) (defining qualified enhanced oil recovery costs) is amended by adding at the end the following new subparagraph:

''(D) Any amount which is paid or incurred during the taxable year to construct a gas treatment plant which—

''(i) is located in the area of the United States (within the meaning of section 638(1)) lying north of 64 degrees North latitude,

''(ii) prepares Alaska natural gas (as defined in section 45M(c)(1)) for transportation through a pipeline with a capacity of at least 2,000,000,000,000 Btu of natural gas per day, and

''(iii) produces carbon dioxide which is injected into hydrocarbon-bearing geological formations.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2003.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 601. 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) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Section 468A(e) (relating to Nuclear Decommissioning Reserve Fund) is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

''(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

''(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.''.

(c) 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) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the excess of the total nuclear decommissioning costs with respect to such nuclear power plant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

''(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

''(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

''(C) TRANSFERS OF QUALIFIED FUNDS.—If—

''(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

''(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not the transferor. The preceding sentence shall not apply if the transferor is an entity exempt from tax under this chapter.

''(D) SPECIAL RULES.—

''(i) GAIN OR LOSS NOT RECOGNIZED.—No gain or loss shall be recognized on any transfer permitted by this subsection.

''(ii) TRANSFERS OF APPRECIATED PROPERTY.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall not exceed the adjusted basis of such property.

''(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

''(4) NO BASIS 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.''.

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

''(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and''.

(d) TECHNICAL AMENDMENT.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking ''rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''rate of 20 percent'',

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 602. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Section 501(c)(12)(C) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

''(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

''(iii) from any nuclear decommissioning transaction,

''(iv) from any asset exchange or conversion transaction, or

''(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.''.

(2) DEFINITIONS AND SPECIAL RULES.—Section 501(c)(12) is amended by adding at the end the following new subparagraphs:

''(E) For purposes of subparagraph (C)(ii)—

''(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

''(I) The provision or sale of electric transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

''(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

''(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

''(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

''(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

''(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

''(v) For purposes of this subparagraph—

''(I) The term 'transmission facility' means an electric output facility (other than a generation facility) which operates at an electric voltage of 69 kilovolts or greater. To the extent provided in regulations, such term includes any output facility which FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003).

''(II) The term 'regional transmission organization' includes an independent system operator.

''(III) The term 'FERC' means the Federal Energy Regulatory Commission.

''(F) The term 'nuclear decommissioning transaction' means—

''(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

''(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

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

''(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

''(i) generating, transmitting, distributing, or selling electric energy, or

''(ii) producing, transmitting, distributing, or selling natural gas.''.

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

''(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

''(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

''(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

''(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

''(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

''(II) the megawatt hours of electric energy sold during the base year to such members.

''(v) For purposes of clause (iv)(II), the term 'base year' means—

''(I) the calendar year preceding the start-up year, or

''(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

''(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

''(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this

subparagraph or, if later, at the election of the mutual or cooperative electric company—

''(I) the first year that such electric company offers nondiscriminatory open access, or

''(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

''(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

''(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.''.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.''.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

''(c) CROSS REFERENCE.—

''For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 603. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

''(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

''(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year (determined without regard to this subsection),

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

''(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2008, of—

''(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

''(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than January 1, 2008, or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

''(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

TITLE VII—ADDITIONAL PROVISIONS

SEC. 701. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination) is amended by striking ''2004'' and inserting ''2005''.

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination) is amended by striking ''2004'' and inserting ''2005''.

SEC. 702. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2004, and annually thereafter.

SEC. 703. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking ''or a diesel-powered train'' each place it appears and by striking ''or train''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Paragraph (3) of section 4083(a) is amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

SEC. 704. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE ENERGY RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium.''.

(2) ENERGY RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) ENERGY RESEARCH CONSORTIUM.—

''(A) IN GENERAL.—The term 'energy research consortium' means any organization—

''(i) which is—

''(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

''(II) organized and operated primarily to conduct energy research in the public interest (within the meaning of section 501(c)(3)),

''(ii) which is not a private foundation,

''(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for energy research, and

''(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for energy research.

''(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).''.

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting ''(other than an energy research consortium)'' after ''organization''.

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

''(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

''(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

''(I) an eligible small business,

''(II) an institution of higher education (as defined in section 3304(f)), or

''(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

''(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

''(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

''(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

''(iii) SMALL BUSINESS.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

''(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

''(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

TITLE VIII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 801. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction, or

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 802. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d) is amended—

(A) by striking subparagraphs (C) and (D) of paragraph (2), and

(B) by adding at the end the following:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable

years ending after the date of the enactment of this Act.

SEC. 803. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 804. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 805. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 806. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 807. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

Subtitle B—Provisions to Discourage Corporate Expatriation

SEC. 821. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

''(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

''(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

''(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

''(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

''(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

''(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

''(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

''(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

''(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

''(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

''(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

''(E) TAX COURT REVIEW.—

''(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

''(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

''(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking ''and'' at the end of subparagraph (C), by inserting ''and'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,''.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 822. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

''(e) DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 823. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle C—Other Revenue Provisions

SEC. 831. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	**Average fee**
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7528. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 832. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''April 2, 2003''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 843. INDIVIDUAL EXPATRIATION TO AVOID TAX.

(a) EXPATRIATION TO AVOID TAX.—

(1) IN GENERAL.—Subsection (a) of section 877 (relating to treatment of expatriates) is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) IN GENERAL.—Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

''(2) INDIVIDUALS SUBJECT TO THIS SECTION.—This section shall apply to any individual if—

''(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $122,000,

''(B) the net worth of the individual as of such date is $2,000,000 or more, or

''(C) such individual fails to certify under penalty of perjury that he has met the requirements of this title for the 5 preceding taxable years or fails to submit such evidence of such compliance as the Secretary may require.

In the case of the loss of United States citizenship in any calendar year after 2003, such $122,000 amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '2002' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.''.

(2) REVISION OF EXCEPTIONS FROM ALTERNATIVE TAX.—Subsection (c) of section 877 (relating to tax avoidance not presumed in certain cases) is amended to read as follows:

''(c) EXCEPTIONS.—

''(1) IN GENERAL.—Subparagraphs (A) and (B) of subsection (a)(2) shall not apply to an individual described in paragraph (2) or (3).

''(2) DUAL CITIZENS.—

''(A) IN GENERAL.—An individual is described in this paragraph if—

''(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, and

''(ii) the individual has had no substantial contacts with the United States.

''(B) SUBSTANTIAL CONTACTS.—An individual shall be treated as having no substantial contacts with the United States only if the individual—

''(i) was never a resident of the United States (as defined in section 7701(b)),

''(ii) has never held a United States passport, and

''(iii) was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

''(3) CERTAIN MINORS.—An individual is described in this paragraph if—

''(A) the individual became at birth a citizen of the United States,

''(B) neither parent of such individual was a citizen of the United States at the time of such birth,

''(C) the individual's loss of United States citizenship occurs before such individual attains age 18½, and

''(D) the individual was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.''.

(3) CONFORMING AMENDMENT.—Section 2107(a) is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if the date of death occurs during a taxable year with respect to which the decedent is subject to tax under section 877(b).''.

(b) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—An individual who would not (but for this subsection) be treated as a citizen or resident of the United States shall continue to be treated as a citizen or resident of the United States until such individual—

''(1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, and

''(2) provides a statement in accordance with section 6039G.''.

(c) PHYSICAL PRESENCE IN THE UNITED STATES FOR MORE THAN 30 DAYS.—Section 877 (relating to expatriation to avoid tax) is amended by adding at the end the following new subsection:

''(g) PHYSICAL PRESENCE.—This section shall not apply to any individual for any taxable year during the 10-year period referred to in subsection (a) in which such individual is present (within the meaning of section 7701(b)(7) without regard to subparagraphs (B), (C), and (D) thereof) in the United States for more than 30 days in the calendar year ending in such taxable year, and such individual shall be treated for purposes of this title as a citizen or resident of the United States for such taxable year.''.

(d) TRANSFERS SUBJECT TO GIFT TAX.—Subsection (a) of section 2501 (relating to taxable transfers) is amended by adding at the end the following:

''(6) TRANSFERS OF CERTAIN STOCK.—

''(A) IN GENERAL.—Paragraph (3) shall not apply to the transfer of stock described in subparagraph (B) by any individual to whom section 877(b) applies, and section 2511(a) shall be applied without regard to whether such stock is property which is situated within the United States.

''(B) VALUATION.—For purposes of subparagraph (A), the value of stock shall be determined as provided in section 2103, except that—

''(i) if the donor owned (within the meaning of section 958(a)) at the time of such transfer 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation, and

''(ii) if such donor owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of such transfer, more than 50 percent of—

''(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(II) the total value of the stock of such corporation,

then the portion of the fair market value of the stock of such foreign corporation transferred by such donor which is included for purposes of subparagraph (A) shall be the amount which bears the same ratio to such value as the fair market value of any assets owned by such foreign corporation and situated in the United States at the time of such transfer bears to the total fair market value of all assets owned by such foreign corporation at such time. For purposes of the preceding sentence, a donor shall be treated as owning stock of a foreign corporation at the time of such transfer if, at such time, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, he owned such stock.''.

(e) ENHANCED INFORMATION REPORTING FROM INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.—

(1) IN GENERAL.—Subsection (a) of section 6039G is amended to read as follows:

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual to whom section 877(b) applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).''.

(2) INFORMATION TO BE PROVIDED.—Subsection (b) of section 6039G is amended to read as follows:

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country, in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) information detailing the income, assets, and liabilities of such individual,

''(6) the number of days that the individual was present in the United States during the taxable year, and

''(7) such other information as the Secretary may prescribe.''.

(3) INCREASE IN PENALTY.—Subsection (d) of section 6039G is amended to read as follows:

''(d) PENALTY.—If—

''(1) an individual is required to file a statement under subsection (a) for any taxable year, and

''(2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of $5,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.''.

(4) CONFORMING AMENDMENT.—Section 6039G is amended by striking subsections (c),

(f), and (g) and by redesignating subsections (d) and (e) as subsection (c) and (d), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who expatriate after February 27, 2003.

SA 1433. Mr. FRIST proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end of the amendment add the following:

All provisions of Division A and Division B shall take effect one day after enactment of this Act.

SA 1434. Mr. FRIST proposed an amendment to amendment SA 1433 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On line 3 of the amendment strike ''one day'' and insert ''two days''.

SA 1435. Mr. FRIST (for Mr. CAMPBELL) proposed an amendment to the bill S. 523, to make technical corrections to law relating to Native Americans, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Technical Corrections Act of 2003''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.
TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS
Subtitle A—Technical Amendments
Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Mississippi Band of Choctaw Indians.
Sec. 108. Rehabilitation of Celilo Indian Village.
Subtitle B—Other Provisions Relating to Native Americans
Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Pueblo of Acoma; land and mineral consolidation.
Sec. 124. Quinault Indian Nation; water feasibility study.
Sec. 125. Santee Sioux Tribe; study and report.
Sec. 126. Shakopee Mdewakanton Sioux Community.
Sec. 127. Agua Caliente Band of Cahuilla Indians.
Sec. 128. Saginaw Chippewa Tribal College.
Sec. 129. Ute Indian Tribe; oil shale reserve.
TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO
Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.
TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS
Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term ''Secretary'' means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''2000'' and inserting ''2004''; and

(B) in paragraph (2), by striking ''2001 and 2002'' and inserting ''2005 and 2006''; and

(2) in subsection (b), by striking ''2002'' and inserting ''2007,''.

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'') (25 U.S.C. 640d–24(a)(8)) is amended by striking ''annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''for each of fiscal years 2003 through 2008''.

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

''(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

''(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

''(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).''.

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: '', and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust''.

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking ''implement the settlement'' and inserting the following: ''implement—

''(1) the settlement;'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

''(A) on October 22, 2001, by the Army Corps of Engineers;

''(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

''(C) on November 8, 2001, by the Secretary of the Interior.''.

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking ''2005'' and inserting ''2008'';

(2) in subsection (b), by striking ''2002'' and inserting ''2005''; and

(3) in subsection (c), by striking ''2001'' and inserting ''2004''.

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking ''report entitled'' and all that follows through ''is hereby declared'' and inserting the following: ''report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared''.

SEC. 108. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100–581 (102 Stat. 2944) is amended by inserting ''and Celilo Village'' after ''existing sites''.

Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the ''Band'')—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term ''bidding or royalty credit'' means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production; for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 124. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 125. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 126. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the ''Community'') may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 127. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land that the Secretary of the Interior agrees is to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) COVENANTS.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 128. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

''(22) Saginaw Chippewa Tribal College.''.

SEC. 129. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

''(3) With respect to the land conveyed to the Tribe under subsection (b)—

''(A) the land shall not be subject to any Federal restriction on alienation; and

''(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.''.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled ''Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract'', entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term ''boundary line'' means the boundary line established under section 204(a).

(3) GOVERNORS.—The term ''Governors'' means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term ''Pueblos'' means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term ''trust land'' means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas)

to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the ''Pueblo Lands Act'') (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the ''Tribe'') in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) ACCOUNT FOR INVESTMENT INCOME.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

FILING OF MOTION

Mr. FRIST. Mr. President, I move to commit S. 14 to the Committee on Energy and Natural Resources with the instructions to report back forthwith with the following amendment. The text of amendment SA 1432 is printed in today's RECORD under ''Text of Amendments.''

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been rescheduled before the Subcommittee on National

Parks of the Committee on Energy and Natural Resources;

The hearing will be held on Tuesday, September 9, 2003, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 808, to provide for expansion of Sleeping Bear Dunes National Lakeshore; S. 1107, to enhance the recreational fee demonstration program for the National Park Service, and for other purposes; and H.R. 620, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Pete Lucero at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, July 30, at 9:30 a.m., to conduct a business meeting to consider S. 930, S. 1279, GSA resolutions to authorize the FY 2004 Capital and Investment Leasing Program, H.R. 274, S. 269, S. 551, the Recycled Oil Bill (to be introduced), S. 793, H.R. 1018, H.R. 281, S. 1210, S. 1425, and the POPS implementing bill, to be introduced.

The hearing will be held in SD 406 (Hearing Room).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 30, 2003, at 9 a.m., to hold a nominations hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 30, 2003, at a time and location to be determined to hold a business meeting to consider the nominations of Joe D. Whitley to be General Counsel, Department of Homeland Security; Penrose C. Albright to be Assistant Secretary of Homeland Security for Plans, Programs, and Budget, Department of Homeland Security, and Joel D. Kaplan to be Deputy Director of the Office of Management and Budget.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, July 30, 2003.

The following agenda will be considered:

Presidential nominations: Howard Radzely, of Maryland, to be Solicitor for the Department of Labor; and Michael Young, of Pennsylvania, to be a member of the Federal Mine Safety and Health Review Commission.

Any additional nominees cleared for action.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 30, 2003, at 10 a.m., in room 216 of the Hart Senate Office Building to conduct a business meeting on pending business, to be followed immediately by an oversight hearing on potential settlement mechanisms of the Cobell v. Norton lawsuit.

Mr. President, I also ask unanimous consent that the Committee on Indian Affairs be authorized to meet in the afternoon on Wednesday, July 30, 2003, at 2 p.m., in room 216 of the Hart Senate Office Building to conduct a hearing on S. 578, The Tribal Government Amendments to the Homeland Security Act of 2002.

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

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Judicial Nominations'' on Wednesday, July 30, 2003, at 10 a.m., in the Dirksen Senate Office Building Room 226.

Witness List:

Panel I: Senators.

Panel II: Henry W. Saad to be United States Circuit Judge for the Sixth Circuit.

Panel III: Larry Alan Burns to be United States District Judge for the Southern District of California; Glen E. Conrad to be United States District Judge for the Western District of Virginia; Henry F. Floyd to be United States District Judge for the District of South Carolina; Kim R. Gibson to be United States District Judge for the Western District of Pennsylvania; Michael W. Mosman to be United States District Judge for the District of Oregon; and Dana Makoto Sabraw to be United States District Judge for the Southern District of California.

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

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, July 30, 2003, at 2:30 p.m. in the Dirksen Senate Office Building Room 226 on ''An Examination of S. 1194, The Mentally Ill Offender Treatment and Crime Reduction Act of 2003.''

Witness List:

Panel I: Mr. Ron Honberg, Esq., National Alliance for Mental Illness, Arlington, VA; The Honorable Eve Stratton, Justice Ohio Supreme Court, Columbus, OH; Mr. Reggie Wilkinson, Director of Ohio Department of Rehabilitation & Corrections, Columbus, OH; Sheriff Donald Eslinger, Seminole County Sheriff's Department, Sanford, FL; and The Honorable John Campbell, Vermont State Senate, Quechee, VT.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Wednesday, July 30, 2003, at 9 a.m., for a hearing entitled ''SARS: Best Practices for Identifying And Caring for New Cases.''

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Wednesday, July 30, 2003, at 2:30 p.m., on Space Exploration.

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

PRIVILEGES OF THE FLOOR

Ms. CANTWELL. Mr. President, I ask unanimous consent the privilege of the floor be granted to Antonio Gonzales, Daniel Archuleta, Jasmine Fallstitch, Christine Nelson, Ryan Davies, James Guttierrez, Frank Murray, Tara Peterkin, and Scott Pearsall for today.

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

Mr. REID. I ask unanimous consent that the privilege of the floor be granted to Erica Buehrens, a legislative fellow on the staff of Senator EDWARDS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that Joanna Bush, Angela Wilson, and Michael Kuehner, interns in my office, be given the privilege of the floor during the debate and vote on amendment No. 1419.

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

Mr. HATCH. Mr. President, I ask unanimous consent that floor privileges be granted to Tom Johnson, and

Brock Taylor of my staff for the duration of the debate on the Pryor nomination.

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

Mr. REID. Madam President, I ask unanimous consent that Lisa Polk from the Finance Committee be granted the privileges of the floor for the remainder of the day.

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

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 100, S. 523.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 523) to make technical corrections to laws relating to Native Americans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 523

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

[SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Native American Technical Corrections Act of 2003''.

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

[Sec. 1. Short title; table of contents.
[Sec. 2. Definition of Secretary.
[TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS
[Subtitle A—Technical Amendments
[Sec. 101. Ute Mountain Ute Tribe; oil shale reserve.
[Sec. 102. Bosque Redondo Memorial Act.
[Sec. 103. Navajo-Hopi Land Settlement Act.
[Sec. 104. Cow Creek Band of Umpqua Indians.
[Sec. 105. Pueblo de Cochiti; modification of settlement.
[Sec. 106. Chippewa Cree Tribe; modification of settlement.
[Sec. 107. Mississippi Band of Choctaw Indians.
[Subtitle B—Other Provisions Relating to Native Americans
[Sec. 111. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
[Sec. 112. Conveyance of Native Alaskan objects.
[Sec. 113. Oglala Sioux Tribe; waiver of repayment of expert assistance loans.
[Sec. 114. Pueblo of Acoma; land and mineral consolidation.
[Sec. 115. Pueblo of Santo Domingo; waiver of repayment of expert assistance loans.
[Sec. 116. Quinault Indian Nation; water feasibility study.
[Sec. 117. Santee Sioux Tribe; study and report.
[Sec. 118. Seminole Tribe of Oklahoma; waiver of repayment of expert assistance loans.
[Sec. 119. Shakopee Mdewakanton Sioux Community.
[TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO
[Sec. 201. Definitions.
[Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
[Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
[Sec. 204. Survey and legal descriptions.
[Sec. 205. Administration of trust land.
[Sec. 206. Effect.
[Sec. 207. Gaming.
[TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS
[Sec. 301. Distribution of judgment funds.
[Sec. 302. Conditions for distribution.

[SEC. 2. DEFINITION OF SECRETARY.

[In this Act, except as otherwise provided in this Act, the term ''Secretary'' means the Secretary of the Interior.

[TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

[Subtitle A—Technical Amendments

[SEC. 101. UTE MOUNTAIN UTE TRIBE; OIL SHALE RESERVE.

[Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

[''(3) With respect to the land conveyed to the Tribe under subsection (b)—

[''(A) the land shall not be subject to any Federal restriction on alienation; and

[''(B) no grant, lease, exploration or development agreement, or other conveyance of the land (or any interest in the land) that is authorized by the governing body of the Tribe shall be subject to approval by the Secretary of the Interior or any other Federal official.''.

[SEC. 102. BOSQUE REDONDO MEMORIAL ACT.

[Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by striking ''2000'' and inserting ''2004''; and

[(B) in paragraph (2), by striking ''2001 and 2002'' and inserting ''2005 and 2006''; and

[(2) in subsection (b), by striking ''2002'' and inserting ''2007,''.

[SEC. 103. NAVAJO-HOPI LAND SETTLEMENT ACT.

[Section 25(a)(8) of Public Law 93–531 (commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'') (25 U.S.C. 640d–24(a)(8)) is amended by striking ''annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''for each of fiscal years 2003 through 2008''.

[SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

[Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: '', and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust''.

[SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

[Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

[(1) by striking ''implement the settlement'' and inserting the following: ''implement—

[''(1) the settlement;'';

[(2) by striking the period at the end and inserting ''; and''; and

[(3) by adding at the end the following:

[''(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

[''(A) on October 22, 2001, by the Army Corps of Engineers;

[''(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

[''(C) on November 8, 2001, by the Secretary of the Interior.''.

[SEC. 106. CHIPPEWA CREE TRIBE; MODIFICATION OF SETTLEMENT.

[(a) IN GENERAL.—Section 101(b)(3) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) is amended by striking ''3 years'' and inserting ''6 years''.

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any decree described in section 101(b)(1) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) entered into on or after December 9, 1999.

[SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

[Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking ''report entitled'' and all that follows through ''is hereby declared'' and inserting the following: ''report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared''.

[Subtitle B—Other Provisions Relating to Native Americans

[SEC. 111. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

[(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the ''Band'')—

[(1) is declared to be held in trust by the United States for the benefit of the Band; and

[(2) shall be considered to be a portion of the reservation of the Band.

[(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

[(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

[SEC. 112. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

[Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

[(1)(A) are in the possession of the Secretary of Agriculture; and

[(B) have been collected from the cemetery site or historical place; but

[(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

[SEC. 113. OGLALA SIOUX TRIBE; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

[Notwithstanding any other provision of law—

[(1) the balances of all outstanding expert assistance loans made to the Oglala Sioux Tribe under Public Law 88–168 (77 Stat. 301), and relating to Oglala Sioux Tribe v. United States (Docket No. 117 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

[(2) the Secretary shall take such action as is necessary to—

[(A) document the cancellation under paragraph (1); and

[(B) release the Oglala Sioux Tribe from any liability associated with any loan described in paragraph (1).

[SEC. 114. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

[(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term ''bidding or royalty credit'' means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

[(1) a bonus bid for a lease sale on the outer Continental Shelf; or

[(2) a royalty due on oil or gas production; [for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

[(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

[(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

[(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

[(2) shall remain available for use by any other person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

[SEC. 115. PUEBLO OF SANTO DOMINGO; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

[Notwithstanding any other provision of law—

[(1) the balances of all expert assistance loans made to the Pueblo of Santo Domingo under Public Law 88–168 (77 Stat. 301), and relating to Pueblo of Santo Domingo v. United States (Docket No. 355 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

[(2) the Secretary shall take such action as is necessary to—

[(A) document the cancellation under paragraph (1); and

[(B) release the Pueblo of Santo Domingo from any liability associated with any loan described in paragraph (1).

[SEC. 116. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

[(a) IN GENERAL.—The Secretary may carry out a water source, quantity, and quality feasibility study for the Quinault Indian Nation, to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

[(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

[(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

[(2) make available to the public, on request, the results of the feasibility study.

[SEC. 117. SANTEE SIOUX TRIBE; STUDY AND REPORT.

[(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

[(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

[(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

[SEC. 118. SEMINOLE TRIBE OF OKLAHOMA; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

[Notwithstanding any other provision of law—

[(1) the balances of all outstanding expert assistance loans made to the Seminole Tribe of Oklahoma under Public Law 88–168 (77 Stat. 301), and relating to Seminole Tribe of Oklahoma v. United States (Docket No. 247 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

[(2) the Secretary shall take such action as is necessary to—

[(A) document the cancellation under paragraph (1); and

[(B) release the Seminole Tribe of Oklahoma from any liability associated with any loan described in paragraph (1).

[SEC. 119. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

[(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the ''Community'') may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

[(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

[(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

[(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

[TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

[SEC. 201. DEFINITIONS.

[In this title:

[(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled ''Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract'', entered into by the Governors on December 20, 2000.

[(2) BOUNDARY LINE.—The term ''boundary line'' means the boundary line established under section 204(a).

[(3) GOVERNORS.—The term ''Governors'' means—

[(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

[(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

[(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[(5) PUEBLOS.—The term ''Pueblos'' means—

[(A) the Pueblo of Santa Clara, New Mexico; and

[(B) the Pueblo of San Ildefonso, New Mexico.

[(6) TRUST LAND.—The term ''trust land'' means the land held by the United States in trust under section 202(a) or 203(a).

[SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

[(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

[(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

[(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

[(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

[(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

[(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

[(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

[(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

[(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not

included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

[(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

[SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

[(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

[(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

[(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

[(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

[(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

[(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

[(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

[SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

[(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

[(b) LEGAL DESCRIPTIONS.—

[(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

[(A) a legal description of the boundary line; and

[(B) legal descriptions of the trust land.

[(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

[(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

[SEC. 205. ADMINISTRATION OF TRUST LAND.

[(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

[(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

[(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

[(b) APPLICABLE LAW.—

[(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

[(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the ''Pueblo Lands Act'') (25 U.S.C. 331 note):

[(A) The trust land.

[(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

[(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

[(c) USE OF TRUST LAND.—

[(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

[(A) traditional and customary uses; or

[(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

[(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

[(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

[SEC. 206. EFFECT.

[Nothing in this title—

[(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

[(A) in or to the trust land; and

[(B) in existence before the date of enactment of this Act;

[(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

[(A) based on Aboriginal or Indian title; and

[(B) in existence before the date of enactment of this Act;

[(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

[(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

[SEC. 207. GAMING.

[Land taken into trust under this title shall neither be considered to have been taken into trust, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

[TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

[SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

[(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

[(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the ''Tribe'') in accordance with this subsection.

[(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

[(A) IN GENERAL.—The Tribe shall—

[(i) establish an account for the principal amount of the judgment funds; and

[(ii) use those funds to establish a Permanent Fisheries Fund.

[(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

[(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

[(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

[(3) ACCOUNT FOR INVESTMENT INCOME.—

[(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

[(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

[(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

[(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

[(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

[(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

[(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

[(B) USE OF FUNDS.—

[(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

[(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

[(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

[(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

[(1) be maintained separately by the Tribe; and

[(2) be subject to an annual audit.

[(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

[SEC. 302. CONDITIONS FOR DISTRIBUTION.

[(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

[(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Technical Corrections Act of 2003''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.
TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS
Subtitle A—Technical Amendments
Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Chippewa Cree Tribe; modification of settlement.
Sec. 108. Mississippi Band of Choctaw Indians.
Sec. 109. Rehabilitation of Celilo Indian Village.
Sec. 110. Inheritance of certain trust or restricted land.
Subtitle B—Other Provisions Relating to Native Americans
Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Oglala Sioux Tribe; waiver of repayment of expert assistance loans.
Sec. 124. Pueblo of Acoma; land and mineral consolidation.
Sec. 125. Pueblo of Santo Domingo; waiver of repayment of expert assistance loans.
Sec. 126. Quinault Indian Nation; water feasibility study.
Sec. 127. Santee Sioux Tribe; study and report.
Sec. 128. Seminole Tribe of Oklahoma; waiver of repayment of expert assistance loans.
Sec. 129. Shakopee Mdewakanton Sioux Community.
Sec. 130. Agua Caliente Band of Cahuilla Indians.
Sec. 131. Saginaw Chippewa Tribal College.
Sec. 132. Ute Indian Tribe; oil shale reserve.
TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO
Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.
TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS
Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term ''Secretary'' means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''2000'' and inserting ''2004''; and

(B) in paragraph (2), by striking ''2001 and 2002'' and inserting ''2005 and 2006''; and

(2) in subsection (b), by striking ''2002'' and inserting ''2007,''.

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'') (25 U.S.C. 640d–24(a)(8)) is amended by striking ''annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''for each of fiscal years 2003 through 2008''.

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

''(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

''(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

''(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).''.

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: '', and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust''.

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking ''implement the settlement'' and inserting the following: ''implement—

''(1) the settlement;'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

''(A) on October 22, 2001, by the Army Corps of Engineers;

''(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

''(C) on November 8, 2001, by the Secretary of the Interior.''.

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking ''2005'' and inserting ''2008'';

(2) in subsection (b), by striking ''2002'' and inserting ''2005''; and

(3) in subsection (c), by striking ''2001'' and inserting ''2004''.

SEC. 107. CHIPPEWA CREE TRIBE; MODIFICATION OF SETTLEMENT.

(a) IN GENERAL.—Section 101(b)(3) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) is amended by striking ''3 years'' and inserting ''6 years''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any decree described in section 101(b)(1) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) entered into on or after December 9, 1999.

SEC. 108. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking ''report entitled'' and all that follows through ''is hereby declared'' and inserting the following: ''report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by section 1(a)(2) of Public Law 106–228, as amended by title VIII, section 811 of Public Law 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared''.

SEC. 109. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100–581 (102 Stat. 2944) is amended by inserting ''and Celilo Village'' after ''existing sites''.

SEC. 110. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

(a) IN GENERAL.—Section 5 of Public Law 98–513 (98 Stat. 2413) is amended to read as follows:

''SEC. 5. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act—

''(1) the owner of an interest in trust or restricted land within the reservation may not devise an interest (including a life estate under section 4) in the land that is less than 2.5 acres to more than 1 tribal member unless each tribal member already holds an interest in that land; and

''(2) any interest in trust or restricted land within the reservation that is less than 2.5 acres that would otherwise pass by intestate succession (including a life estate in the land under section 4), or that is devised to more than 1 tribal member that is not described in paragraph (1), shall revert to the Indian tribe, to be held in the name of the United States in trust for the Indian tribe.

''(b) NOTICE.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Indian Probate Reform Act of 2003, the Secretary shall provide notice to owners of trust or restricted land within the Lake Traverse Reservation of the provisions of this section by—

''(A) direct mail;

''(B) publication in the Federal Register; or

''(C) publication in local newspapers.

''(2) CERTIFICATION.—After providing notice under paragraph (1), the Secretary shall—

''(A) certify that the requirements of this subsection have been met; and

''(B) shall publish notice of that certification in the Federal Register.''.

(b) APPLICABILITY.—This section and the amendment made by this section shall not apply with respect to the estate of any person who dies before the date that is 1 year after the date on which the Secretary makes the required certification under section 5(b) of Public Law 98–513 (98 Stat. 2413) (as amended by subsection (a)).

Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the ''Band'')—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. OGLALA SIOUX TRIBE; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Oglala Sioux Tribe under Public Law 88–168 (77 Stat. 301), and relating to Oglala Sioux Tribe v. United States (Docket No. 117 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Oglala Sioux Tribe from any liability associated with any loan described in paragraph (1).

SEC. 124. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term ''bidding or royalty credit'' means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production;

for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any other person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 125. PUEBLO OF SANTO DOMINGO; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all expert assistance loans made to the Pueblo of Santo Domingo under Public Law 88–168 (77 Stat. 301), and relating to Pueblo of Santo Domingo v. United States (Docket No. 355 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Pueblo of Santo Domingo from any liability associated with any loan described in paragraph (1).

SEC. 126. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 127. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 128. SEMINOLE TRIBE OF OKLAHOMA; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Seminole Tribe of Oklahoma under Public Law 88–168 (77 Stat. 301), and relating to Seminole Tribe of Oklahoma v. United States (Docket No. 247 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Seminole Tribe of Oklahoma from any liability associated with any loan described in paragraph (1).

SEC. 129. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the ''Community'') may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 130. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) COVENANTS.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 131. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

''(22) Saginaw Chippewa Tribal College.''.

SEC. 132. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

''(3) With respect to the land conveyed to the Tribe under subsection (b)—

''(A) the land shall not be subject to any Federal restriction on alienation; and

''(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.''.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled ''Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract'', entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term ''boundary line'' means the boundary line established under section 204(a).

(3) GOVERNORS.—The term ''Governors'' means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term ''Pueblos'' means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term ''trust land'' means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the ''Pueblo Lands Act'') (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the ''Tribe'') in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) ACCOUNT FOR INVESTMENT INCOME.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after

the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

Mr. FRIST. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be withdrawn; that the Campbell substitute be agreed to; that the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was withdrawn.

The amendment (No. 1435) was agreed to, as follows:

S . 523

Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Technical Corrections Act of 2003''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.
TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS
Subtitle A—Technical Amendments
Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Mississippi Band of Choctaw Indians.
Sec. 108. Rehabilitation of Celilo Indian Village.
Subtitle B—Other Provisions Relating to Native Americans
Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Pueblo of Acoma; land and mineral consolidation.
Sec. 124. Quinault Indian Nation; water feasibility study.
Sec. 125. Santee Sioux Tribe; study and report.
Sec. 126. Shakopee Mdewakanton Sioux Community.
Sec. 127. Agua Caliente Band of Cahuilla Indians.
Sec. 128. Saginaw Chippewa Tribal College.
Sec. 129. Ute Indian Tribe; oil shale reserve.
TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO
Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.
TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS
Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term ''Secretary'' means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''2000'' and inserting ''2004''; and

(B) in paragraph (2), by striking ''2001 and 2002'' and inserting ''2005 and 2006''; and

(2) in subsection (b), by striking ''2002'' and inserting ''2007,''.

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'') (25 U.S.C. 640d–24(a)(8)) is amended by striking ''annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''for each of fiscal years 2003 through 2008''.

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

''(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

''(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

''(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).''.

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: '', and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust''.

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking ''implement the settlement'' and inserting the following: ''implement—

''(1) the settlement;'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

''(A) on October 22, 2001, by the Army Corps of Engineers;

''(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

''(C) on November 8, 2001, by the Secretary of the Interior.''.

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking ''2005'' and inserting ''2008'';

(2) in subsection (b), by striking ''2002'' and inserting ''2005''; and

(3) in subsection (c), by striking ''2001'' and inserting ''2004''.

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking ''report entitled'' and all that follows through ''is hereby declared'' and inserting the following: ''report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared''.

SEC. 108. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100–581 (102 Stat. 2944) is amended by inserting ''and Celilo Village'' after ''existing sites''.

Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the ''Band'')—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term ''bidding or royalty credit'' means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production; for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 124. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 125. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 126. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the ''Community'') may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 127. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land that the Secretary of the Interior agrees is to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) COVENANTS.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 128. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

''(22) Saginaw Chippewa Tribal College.''.

SEC. 129. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

''(3) With respect to the land conveyed to the Tribe under subsection (b)—

''(A) the land shall not be subject to any Federal restriction on alienation; and

''(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.''.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled ''Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract'', entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term ''boundary line'' means the boundary line established under section 204(a).

(3) GOVERNORS.—The term ''Governors'' means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term ''Pueblos'' means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term ''trust land'' means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas)

to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the ''Pueblo Lands Act'') (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the ''Tribe'') in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) ACCOUNT FOR INVESTMENT INCOME.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

The bill (S. 523) as amended, was read the third time and passed.

MAX CLELAND OVER-THE-ROAD BUS SECURITY AND SAFETY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 210, S. 929.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 929) to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which

had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 929

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 ''*Max Cleland* Over-the-Road Bus Security and Safety Act of 2003''.

SEC. 2. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary of [Transportation,] *Homeland Security* acting through the Administrator of the [Federal Motor Carrier Safety Administration,] *Transportation Security Administration,* shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing an emergency communications system linked to law enforcement and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) REIMBURSEMENT.—A grant under this Act may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Secretary to have been incurred by such operators since September 11, 2001.

(c) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this Act shall be 90 percent.

(d) DUE CONSIDERATION.—In making grants under this Act, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001.

(e) GRANT REQUIREMENTS.—A grant under this Act shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

SEC. 3. PLAN REQUIREMENT.

(a) IN GENERAL.—The Secretary may not make a grant under this Act to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(1) a plan for making security improvements described in section 2 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(b) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

SEC. 4. OVER-THE-ROAD BUS DEFINED.

In this Act, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

SEC. 5. BUS SECURITY ASSESSMENT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of [Transportation] *Homeland Security* shall transmit to the Committee on Commerce, Science, and Transportation of the [Senate and] *Senate,* the Committee on Transportation and Infrastructure of the House of [Representatives] *Representatives, and the Select Committee on Homeland Security of the House of Representatives,* a preliminary report in accordance with the requirements of this section.

(b) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(1) an assessment of the over-the-road bus security grant program;

(2) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(3) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(4) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(5) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(6) an assessment of industry best practices to enhance security.

(c) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

SEC. 6. FUNDING.

There are authorized to be appropriated to the Secretary of [Transportation] *Homeland Security* to carry out this Act [$35,000,000] *$25,000,000* for fiscal year 2003 and $99,000,000 for fiscal year 2004. Such sums shall remain available until expended.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee-reported amendments be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 929), as amended, was read the third time and passed, as follows:

S. 929

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 ''Max Cleland Over-the-Road Bus Security and Safety Act of 2003''.

SEC. 2. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Homeland Security acting through the Administrator of the Transportation Security Administration, shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing an emergency communications system linked to law enforcement and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) REIMBURSEMENT.—A grant under this Act may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Secretary to have been incurred by such operators since September 11, 2001.

(c) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this Act shall be 90 percent.

(d) DUE CONSIDERATION.—In making grants under this Act, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001.

(e) GRANT REQUIREMENTS.—A grant under this Act shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

SEC. 3. PLAN REQUIREMENT.

(a) IN GENERAL.—The Secretary may not make a grant under this Act to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(1) a plan for making security improvements described in section 2 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(b) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

SEC. 4. OVER-THE-ROAD BUS DEFINED.

In this Act, the term ''over-the-road bus'' means a bus characterized by an elevated

passenger deck located over a baggage compartment.

SEC. 5. BUS SECURITY ASSESSMENT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Select Committee on Homeland Security of the House of Representatives, a preliminary report in accordance with the requirements of this section.

(b) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(1) an assessment of the over-the-road bus security grant program;

(2) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(3) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(4) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(5) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(6) an assessment of industry best practices to enhance security.

(c) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

SEC. 6. FUNDING.

There are authorized to be appropriated to the Secretary of Homeland Security to carry out this Act $25,000,000 for fiscal year 2003 and $99,000,000 for fiscal year 2004. Such sums shall remain available until expended.

FEDERAL EMPLOYEE STUDENT LOAN ASSISTANCE ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 220, S. 926.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 926) to amend section 5379 of title 5, United States Code, to increase the annual and aggregate limits on student loan repayments by Federal agencies.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 926) was read the third time and passed, as follows:

S. 926

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 ''Federal Employee Student Loan Assistance Act''.

SEC. 2. STUDENT LOAN REPAYMENTS.

Section 5379(b)(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking ''$6,000'' and inserting ''$10,000''; and

(2) in subparagraph (B), by striking ''$40,000'' and inserting ''$60,000''.

S. 481

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

SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) as subsection (k); and

(2) by adding at the end the following:

''(l) In the case of any annuity computation under this section that includes, in the aggregate, at least 2 months of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point.''.

(b) CONFORMING AMENDMENT.—Section 8422(d)(2) of title 5, United States Code (as added by section 122(b)(2) of Public Law 107–135), is amended by striking ''8415(i)'' and inserting ''8415(k)''.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any annuity entitlement which is based on a separation from service occurring on or after the date of enactment of this Act.

HONORING THE MEMORY OF DR. WILLIAM R. BRIGHT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 206, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

S. Res. 206, honoring the memory of Dr. William R. ''Bill'' Bright, commending his life as an example to succeeding generations.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWNBACK. Mr. President, I rise today to honor the memory of one of the great spiritual leaders of the twentieth century, Dr. William R. Bright. Dr. Bright, or Bill, as a number of us in this Chamber knew him, was a man of great faith, great heart, and great strength. Bill Bright's passing on Saturday, July 19, 2003, leaves a hole in my heart and the hearts of the many individual lives he touched. For this reason, I would like to take a few moments to remember the life and work of Dr. Bright.

Bill was born in Coweta, Oklahoma, in 1921. He graduated from Northeastern State University in Oklahoma with a Bachelor of Arts degree in economics and a minor in sociology. While a student, Bill already showed promise as an energetic community leader. He served as editor of the university yearbook, was elected student body president, was chosen as a member of Who's Who in American Colleges and Universities, and was selected by students and faculty as the year's outstanding graduate. After graduation, he joined the extension faculty of Oklahoma State University for a time, and then moved to Los Angeles to launch a business career.

While in California, Bill attended the First Presbyterian Church in Hollywood, where he became a Christian in 1945 and began an intensive study of the Bible. Never one who lacked commitment to those endeavors he felt were of great importance, Bill engaged in 5 years of graduate work at Princeton and Fuller theological seminaries, while still continuing his business interests. During his studies at Fuller, young Bright became convinced that he personally needed to be working to help fulfill Christ's Great Commission to spread the Gospel to those around him. Looking for opportunity to act on this calling, Bright began by sharing his faith in Christ with students on campus at UCLA, and activity which gave birth to the present worldwide ministry of Campus Crusade for Christ International.

Bill worked faithfully to lead Campus Crusade for Christ from its infancy in 1951 to its current size. Campus Crusade has grown to be one of the world's largest Christian ministries, serving individuals in 191 countries through a staff of 26,000 full-time employees and more than 225,000 trained volunteers. What began as a campus ministry now covers almost every segment of society with more than 70 special ministries and projects which reach out to students, inner cities, governments, prisons, families, the military, executives, musicians, athletes, and many others.

In addition to touching so many lives by the work of Campus Crusade, Bright reached out to others through the print and visual media. Bill authored more than 100 books and booklets, as well as thousands of articles and pamphlets, which have been distributed by the millions in most major languages. In particular, his 1956 booklet title The Four Spiritual Laws has been printed in over 200 languages and distributed to mre than 2.5 billion people. Bright also commissioned the JESUS film, a documentary of the life of Christ, which has been viewed by over 5.1 billion people in 234 countries and has been translated into 786 languages.

While Bill focused on serving others and would not like attention to be drawn to himself, he could certainly not avoid attracting praise for his great works of religious and community service. Dr. Bright held six honorary doctorate degrees: a Doctor of Laws from the Jeonbug National University of Korea, a Doctor of Divinity from John Brown University, a Doctor of Letters from Houghton University, a Doctor of Divinity from the Los Angeles Bible College and Seminary, a Doctor of Divinity from Montreat-Anderson College, and a Doctor of Laws from Pepperdine University. In 1971, he was named outstanding alumnus of his

alma mater, Northeastern State University. He is listed in Who's Who in Religion and England's Who's Who in Community Service, and has received numerous other recognitions. Among the most prestigious of these awards was the Templeton Prize for Prgress in Religion in 1996, which is worth over $1 million. Bill, in his charity, donated all of this prize money to ministries training Christians internationally in the spiritual benefits of fasting and prayer.

Bill Bright was a man of determination and spiritual vigor, a man who had great faith, great hope, and great love for his Lord and for his fellow man. He was a man worthy of respect and emulation. I, and I know many of my colleagues in this Chamber, extend our deepest condolences to Bill's wife, Vonetta, his sister, Florence, his brother, Forest, his two sons, Zachary and Brad, and his four grandchildren. We know that Bill is now in a place of greater peace than ever he was on earth. We commend him to his eternal rest and we thank him for his many years of faithful service.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD as if read.

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

The resolution (S. Res. 206) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 206

Whereas Dr. Bright died on July 19, 2003, at age 81 in Orlando, Florida from complications related to pulmonary fibrosis, a lung disease for which there is no known cure or effective treatment;

Whereas Dr. Bright was an agnostic humanist and materialist, and successful Hollywood businessman, until he became ''overcome by the love of our great Creator God and Savior'' in 1945, whereupon he spent 5 years in theological studies at Princeton and Fuller Theological Seminaries;

Whereas Dr. Bright, with his wife Vonette, in 1951 founded Campus Crusade for Christ International, which now serves people in 191 countries through a staff of 27,000 full-time employees and up to 500,000 trained volunteers;

Whereas his life focus was on students and laypersons, and from the first he emphasized the role of women as full partners in leadership in the various ministries;

Whereas Dr. Billy Graham, a long-time friend of the Brights, has said: ''He is a man whose sincerity and integrity and devotion to our Lord have been an inspiration and a blessing to me ever since the early days of my ministry'';

Whereas Dr. Bright lived simply, owning neither houses nor land, and receiving no honoraria or donations for his thousands of appearances across the world, and the scores of writings and video presentations he developed;

Whereas when the Berlin Wall came down in 1989, he fulfilled a dream of more than 40 years of praying for Russia by donating his entire pension to establish a ministry to the students of Moscow State University;

Whereas Campus Crusade for Christ International operates more than 70 ministries and projects which offer hope and spiritual enlightenment across the globe to students on hundreds of campuses, urban residents, including minorities, the well-known Athletes-in-Action ministry, leaders of governments, inmates of prisons, aid to families, aid to health and education programs, aid to families of military personnel, executives, entertainers and musicians, and many others;

Whereas in 1979, Dr. Bright commissioned the JESUS film, a feature-length documentary on the life of Christ, directed by John Heyman, which has since been viewed by more than 5,100,000,000 people in 234 countries and has become the most widely viewed, as well as most widely translated, in 786 languages, film in history;

Whereas Dr. Bright is author of more than 100 books and booklets, as well as thousands of articles and pamphlets that have been distributed by the millions in most major languages, including the widely regarded Four Spiritual Laws of which 2,500,000,000 copies have been distributed;

Whereas Dr. Bright received 8 honorary degrees from universities in the United States and other nations, and numerous awards and honors from higher education, his home state of Oklahoma, and his peers in religious, radio, and television broadcasting;

Whereas, Dr. Bright was awarded the unique and prestigious Templeton Prize for Progress in Religion in 1996, presented by Prince Phillip at Buckingham Palace in London, and was received by Pope John Paul II in Rome where he addressed world spiritual leaders in accepting its $1,100,000 prize, which he directed be given to worldwide fasting for peace and spiritual enlightenment;

Whereas Dr. Bright sought ecumenical and trans-denominational cooperation throughout the world by building more than 1,000 partnerships with other ministries, and in 1983, he and former President Ronald Reagan, along with Jewish, Catholic, and Protestant members of the clergy, informed Congress which voted to establish The Year of the Bible to help focus on timeless truths for the Nation;

Whereas he helped create what media reports describe as the largest non-denominational Christian ministry in the world, and he rejected appeals to establish a single religious denomination and would not allow his name to be attached to any single denominational enterprise;

Whereas he urged followers to be ''salt and light,'' to seek civility in society, and to be active in ministry to prisons, hospitals, orphanages, and he declared the duties of citizenship to be reliably informed, active in the study of issues, voter registration and get-out-the-vote drives, and personal voting;

Whereas he never endorsed individual candidates or parties, and encouraged laypersons to seek public service and often called upon people in all lands to study American History, declaring President George Washington as his secular hero after Jesus of Nazareth and the Apostle Paul;

Whereas in response to a suggestion from a Member of the United States Senate, he helped establish the Evangelical Council for Financial Accountability to set high standards and monitor their compliance, setting an example for all charitable organizations;

Whereas Money magazine has often cited Campus Crusade for Christ International as best or one of the top 5 non-profit ministries for effective stewardship of donor dollars; and

Whereas in his last months he co-founded the Global Pastors Network, a separate ministry to pastors worldwide with helpful resources and a goal to start 5,000,000 home-based studies of the attributes of God: Now, therefore, be it

Resolved, That the Senate—

(1) sends its condolences to Mrs. Vonette Zachary Bright, their grandchildren, their sons, Zac and Brad, and their wives, Terry and Katherine, all of whom are also in full-time Christian ministry; and

(2) does hereby honor the memory of Dr. William R. (''Bill'') Bright, an ambassador of spiritual goodwill, whose 58 years of dedicated and effective service stand as an outstanding example of selfless leadership to all humankind.

UNANIMOUS CONSENT AGREEMENT—S. 3

Mr. FRIST. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the House message with respect to S. 3, the partial-birth abortion bill, and that it be considered under the following limitations:

That the only motion in order be a motion to disagree to the House amendment to the Senate bill; that there be 8 hours of debate with respect to that motion, with the time equally divided and controlled between the majority and Democratic leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on the motion to disagree; that upon disposition of that motion, the Senate agree to the request for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate with a ratio of 3-to-2, without further intervening action or debate.

Mr. REID. Mr. President, reserving the right to object. I ask the majority leader this through the Chair: Senator BOXER has asked that she be in charge of this 8 hours of debate, which the Democratic leader certainly has agreed to. We would like some commitment from the majority leader that these 8 hours won't start in the middle of the night sometime and that she will be able to use her 8 hours at a reasonable time, during the day or early evening. We hope the majority leader could give us that assurance.

Mr. FRIST. Mr. President, indeed it is in the unanimous consent request that a time will be determined by the majority leader in consultation with the Democratic leader. It will not be in the middle of the night. We will find a mutually appropriate time.

Mr. REID. I have no objection.

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

MEASURE READ THE FIRST TIME—S. 1504

Mr. FRIST. Mr. President, I understand that S. 1504, introduced by Senator GREGG earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1504) to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents.

Mr. FRIST. Mr. President, I ask for its second reading and object to further proceeding.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S10171–S10453

Measures Introduced: Seventeen bills and two resolutions were introduced, as follows: S. 1489–1505, and S. Res. 205–206. **Page S10265**

Measures Reported:

S. 1125, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, with amendments. (S. Rept. No. 108–118) **Page S10264**

Measures Passed:

Native American Technical Corrections Act: Senate passed S. 523, to make technical corrections to law relating to Native Americans, after withdrawing the committee amendment in the nature of a substitute, and agreeing to the following amendment proposed thereto: **Pages S10441–49**

Frist (for Campbell) Amendment No. 1435, in the nature of a substitute. **Pages S10447–49**

Over-the-Road Bus Security and Safety Act: Senate passed S. 929, to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, after agreeing to the committee amendments. **Pages S10449–51**

Federal Employees Student Loan Assistance Act: Senate passed S. 926, to amend section 5379 of title 5, United States Code, to increase the annual and aggregate limits on student loan repayments by Federal agencies. **Page S10451**

Honoring Dr. William R. Bright: Senate agreed to S. Res. 206, honoring the memory of Dr. William R. (''Bill'') Bright and commending his life as an example to succeeding generations. **Pages S10451–52**

Energy Policy Act: Senate continued consideration of S. 14, to enhance the energy security of the United States, taking action on the following amendments proposed thereto: **Pages S10173–88, S10203–18, S10251**

Rejected:

By 48 yeas to 50 nays (Vote No. 311), Cantwell Amendment No. 1419 (to Amendment No. 1412), to prohibit market manipulation. **Page S10173–88**

Bingaman Amendment No. 1413 (to Amendment No. 1412), to strengthen the Federal Energy Regulatory Commission's authority to review public utility mergers. (By 53 yeas to 44 nays (Vote No. 313), Senate tabled the amendment.) **Pages S10173, S10213–14, S10215**

Bingaman Amendment No. 1418 (to Amendment No. 1412), to preserve the Federal Energy Regulatory Commission's authority to protect the public interest prior to July 1, 2005. (By 54 yeas to 44 nays (Vote No. 314), Senate tabled the amendment.) **Pages S10173, S10214–15, S10215–16**

Feingold/Brownback Amendment No. 1416 (to Amendment No. 1412), to protect the public and investors from abusive affiliate, associate company, and subsidiary company transactions. (By 50 yeas to 48 nays (Vote No. 315), Senate tabled the amendment.) **Pages S10203–13, S10216**

Pending:

Campbell Amendment No. 886, to replace ''tribal consortia'' with ''tribal energy resource development organizations''. **Page S10173**

Durbin Modified Amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency. **Page S10173**

Domenici Amendment No. 1412, to reform certain electricity laws. **Page S10173**

Motion to commit the bill to the Committee on Energy and Natural Resources, with instructions to report back forthwith, with Frist Amendment No. 1432 (to instructions on motion to commit), to provide a national energy policy for the United States of America. **Page S10251**

Frist Amendment No. 1433 (to instructions on motion to commit), to provide that all provisions of Division A and Division B shall take effect one day after enactment of this Act. **Page S10251**

Frist Amendment No. 1434 (to Amendment No. 1433), to make a technical correction. **Page S10252**

A motion was entered to close further debate on the pending motion to commit (listed above) and, in

accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Friday, August 1, 2003. **Page S10252**

A unanimous-consent agreement was reached providing for further consideration of the bill on Thursday, July 31, 2003. **Page S10252**

Nomination Considered: Senate continued consideration of the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit. **Pages S10196–S10203**

During consideration of this measure today, Senate also took the following action:

By 55 yeas to 43 nays (Vote No. 312), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the seventh motion to close further debate on the nomination. **Page S10203**

Nomination: Senate began consideration of the nomination of Carolyn B. Kuhl, of California, to be United States Circuit Judge for the Ninth Circuit. **Page S10252**

A motion was entered to close further debate on the nomination and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Friday, August 1, 2003. **Page S10252**

Nomination—Agreement: A unanimous-consent-time agreement was reached providing for further consideration of the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit, at 9 a.m., on Thursday, July 31, 2003, with a vote on the motion to close further debate to occur at 10 a.m. **Page S10252**

Partial-Birth Abortion Ban Act House Message—Agreement: A unanimous-consent agreement was reached providing that at a time to be determined by the Majority Leader, after consultation with the Democratic Leader, Senate proceed to consideration of the House message on S. 3, to prohibit the procedure commonly known as partial-birth abortion; provided further, that the only motion in order be a motion to disagree to the House amendment to the Senate bill; that there be 8 hours of debate with respect to that motion, with the time equally divided and controlled between the Majority and Democratic Leaders or their designees; that upon the use or yielding back of time, the Senate proceed to a vote on the motion to disagree; that upon disposition of that motion, the Senate agree to the request for a conference and that the Chair be authorized to appoint conferees on the part of the Senate with a ratio of 3–2. **Page S10459**

Nominations Received: Senate received the following nominations:

James Casey Kenny, of Illinois, to be Ambassador to Ireland.

Pamela P. Willeford, of Texas, to be Ambassador to Switzerland, and to serve concurrently and without additional compensation as Ambassador to the Principality of Liechtenstein.

Cristina Beato, of New Mexico, to be Medical Director in the Regular Corps of the Public Health Service, subject to the qualifications therefor as provided by law and regulations, and to be an Assistant Secretary of Health and Human Services.

George W. Miller, of Virginia, to be a Judge of the United States Court of Federal Claims for the term of fifteen years.

F. Dennis Saylor IV, of Massachusetts, to be United States District Judge for the District of Massachusetts.

1 Army nomination in the rank of general.

Routine lists in the Army, Navy. **Pages S10253–54**

Measures Read First Time: **Pages S10262–63**

Executive Communications: **Pages S10263–64**

Executive Reports of Committees: **Pages S10264–65**

Additional Cosponsors: **Pages S10265–67**

Statements on Introduced Bills/Resolutions: **Pages S10267–97**

Additional Statements: **Pages S10260–62**

Amendments Submitted: **Pages S10297–S10439**

Notices of Hearings/Meetings: **Pages S10439–40**

Authority for Committees to Meet: **Page S10440**

Privilege of the Floor: **Pages S10440–41**

Record Votes: Five record votes were taken today. (Total—315) **Pages S10188, S10203, S10215, S10216**

Recess: Senate met at 9 a.m., and recessed at 10:17 p.m., until 9 a.m., on Thursday, July 31, 2003. (For Senate's program, see the remarks of the Majority Leader in today's Record on pages S10253–53.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Armed Services: Committee ordered favorably reported the nominations of Lawrence Mohr, Jr., of South Carolina, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences, Department of Defense, and 1,293 nominations in the Army, Navy, Air Force, and Marines.

SPACE EXPLORATION

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space concluded hearings to examine space exploration, focusing on the National Oceanic and Atmospheric Administration, National Aeronautics and Space Administration, and Department of Defense partnerships in future spacecraft systems and products and services developed through their collaborative efforts, sensor development, research to operations, and collaborative activities in ground systems support, after receiving testimony from Brigadier General Richard C. Zilmer, USMC, Director, Strategy and Plans Division, Plans, Policies, and Operations Department, Headquarters, Marine Corps; Orlando Figueroa, Director, Mars Exploration Program Office, Office of Space Science, National Aeronautics and Space Administration; Gregory W. Withee, Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, Department of Commerce; Michael J.S. Belton, Belton Space Exploration Initiatives, Tucson, Arizona; and Louis J. Lanzerotti, New Jersey Institute of Technology, Newark.

BUSINESS MEETING

Committee on Environment and Public Works: Committee ordered favorably reported the following bills:

S. 1279, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area, with an amendment in the nature of a substitute.

H.R. 274, to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge;

S. 930, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to prepare for and respond to all hazard, with an amendment in the nature of a substitute.

S. 269, to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species, with amendments.

S. 551, to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, with an amendment.

S. 793, to provide for increased energy savings and environmental benefits through the increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete, with an amendment in the nature of a substitute.

H.R. 1018, to designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building";

S. 1210, to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries;

S. 1425, to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program, with an amendment; and

S. 1486, to amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, with an amendment in the nature of a substitute to Title 1.

NOMINATIONS

Committee on Foreign Relations: Committee concluded hearings to examine the Nominations of Jeffrey A. Marcus, of Texas, to be Ambassador to Belgium, who was introduced by Senators Hutchison and Cornyn, Constance Albanese Morella, of Maryland, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador, who was introduced by Senators Sarbanes and Warner, George H. Walker, of Missouri, to be Ambassador to Hungary, who was introduced by Senators Bond and Talent, and Jackie Wolcott Sanders, for the rank of Ambassador during her tenure of service as United States Representative to the Conference on Disarmament and the Special Representative of the President of the United States for Non-Proliferation of Nuclear Weapons, who was introduced by Senator Warner, testified and answered questions in their own behalf.

SARS

Committee on Governmental Affairs: Permanent Subcommittee on Investigations concluded hearings to examine the best practices for identifying and caring for new cases of SARS, focusing on control measures to help contain the spread of SARS should future outbreaks occur, after receiving testimony from Marjorie E. Kanof, Director, Health Care-Clinical and

Military Health Care Issues, General Accounting Office; and James M. Hughes, Director, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Department of Health and Human Services.

BUSINESS MEETING

Committee on Governmental Affairs: Committee ordered favorably reported the Nominations of Joe D. Whitley, of Georgia, to be General Counsel, and Penrose C. Albright, of Virginia, to be Assistant Secretary, both of the Department of Homeland Security, and Joel David Kaplan, of Massachusetts, to be Deputy Director of the Office of Management and Budget.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the nominations of Howard Radzely, of Maryland, to be Solicitor for the Department of Labor, Michael Young, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission, and Thomasina V. Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission.

BUSINESS MEETING

Committee on Indian Affairs: Committee ordered favorably reported S. 428, to provide for the distribution of judgment funds to the Assiniboine and Sioux Tribes of the Fort Peck Reservation, with an amendment in the nature of a substitute.

COBELL V. NORTON LAWSUIT

Committee on Indian Affairs: Committee concluded oversight hearings on potential settlement mechanisms of the Cobell v. Norton lawsuit, after receiving testimony from James Cason, Associate Deputy Secretary of the Interior; Tex G. Hall, National Congress of American Indians, Washington, D.C.; John Berrey, Quapaw Tribe of Oklahoma, Quapaw; John E. Echohawk, Native American Rights Fund, Boulder, Colorado; Harold Frazier, Cheyenne River Sioux Tribe, Eagle Butte, South Dakota; and Donald T. Gray, Nixon Peabody, LLP, San Francisco, California.

TRIBAL GOVERNMENT AMENDMENTS TO HOMELAND SECURITY

Committee on Indian Affairs: Committee concluded hearings to examine S. 578, Tribal Government Amendments to the Homeland Security Act of 2002, a bill to amend the Homeland Security Act to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security, after receiving testimony from Thomas B. Heffelfinger, United States Attorney (Minneapolis, Minnesota), Department of Justice; Terry Virden, Director, Bureau of Indian Affairs, Department of the Interior; Josh Filler, Director, Office of State and Local Government Coordination, Department of Homeland Security; William F. Raub, Principal Deputy Assistant Secretary of Health and Human Service for Public Health Emergency Preparedness; Roland E. Johnson, Pueblo of Laguna, Laguna, New Mexico; Audrey Bennett, Prairie Island Tribal Council, Welch, Minnesota; Earl Old Person, Blackfeet Tribal Business Council, Browning, Montana; Vivian Juan-Saunders, Tohono O'odham Nation, Sells, Arizona; Alvin Windy Boy, Sr., Chippewa Cree Tribe, Box Elder, Montana; Tim Sanders, Gila River Indian Community, Sacaton, Arizona; and Tex Hall, National Congress of American Indians, and Gary Edwards, National Native American Law Association, both of Washington, D.C.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, who was introduced by Representative Rogers (MI); Larry Alan Burns, to be United States District Judge for the Southern District of California, and Dana Makoto Sabraw, to be United States District Judge for the Southern District of California, who were both introduced by Senator Feinstein; Glen E. Conrad, to be United States District Judge for the Western District of Virginia, who was introduced by Senators Warner and Allen; Henry F. Floyd, to be United States District Judge for the District of South Carolina, who was introduced by Senators Hollings and Graham (S.C.); Kim R. Gibson, to be United States District Judge for the Western District of Pennsylvania, who was introduced by Senators Specter and Santorum; and Michael W. Mosman, to be United States District Judge for the District of Oregon, who was introduced by Senators Wyden and Smith, after each nominee testified and answered questions in their own behalf.

Also, testimony was received from Senators Levin and Stabenow.

MENTALLY ILL OFFENDER TREATMENT AND CRIME REDUCTION ACT

Committee on the Judiciary: Committee concluded hearings to examine S. 1194, to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems, after receiving testimony from Vermont State Senator John F. Campbell, Quechee; Justice Evelyn Lundberg Stratton, Supreme Court of Ohio, on behalf of the Advisory Committee on Mentally Ill in the Courts, and Reginald A. Wilkinson, Ohio Department of Rehabilitation and

Correction, on behalf of the Association of State Correctional Administrators and the Council of State Governments, both of Columbus; Donald F. Eslinger, Seminole County Sheriff, Sanford, Florida; Ron Honberg, National Alliance for the Mentally Ill, Arlington, Virginia, on behalf of the Campaign for Mental Health Reform; and Rhonda Atkins, Sarasota, Florida.

House of Representatives

Chamber Action

The House was not in session today. Pursuant to the provisions of H. Con. Res. 259, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate, it stands adjourned until 2 p.m. on Wednesday, September 3, 2003.

Committee Meetings

No committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D912)*

H.R. 255, to authorize the Secretary of the Interior to grant an easement to facilitate access to the Lewis and Clark Interpretative Center in Nebraska City, Nebraska. Signed on July 29, 2003. (Public Law 108–62).

H.R. 733, to authorize the Secretary of the Interior to acquire the McLoughlin House in Oregon City, Oregon, for inclusion in Fort Vancouver Historic Site. Signed on July 29, 2003. (Public Law 108–63).

H.R. 1577, to designate the visitors' center in Organ Pipe Cactus National Monument in Arizona as the "Kris Eggle Visitor Center". Signed on July 29, 2003. (Public Law 108–64).

S. 1399, to redesignate the facility of the United States Postal Service located at 101 South Vine Street in Glenwood, Iowa, as the "William J. Scherle Post Office Building". Signed on July 29, 2003. (Public Law 108–65).

COMMITTEE MEETINGS FOR THURSDAY, JULY 31, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine proposed Mine Safety and Health Administration (MSHA) rule on coal dust; to be followed by a hearing on union financial reporting disclosure; and a hearing on a proposed rule on overtime pay, 2 p.m., SD–192.

Committee on Armed Services: to hold a closed briefing regarding the work of the Iraq Survey Group, 9:30 a.m., S–407, Capitol.

Committee on Banking, Housing, and Urban Affairs: business meeting to mark up S. 627, to prevent the use of certain payments instruments, credit cards, and fund transfers for unlawful Internet gambling, and H.R. 659, to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals; to be followed by a hearing to examine measures to enhance the operation of the Fair Credit Reporting Act, 9:30 a.m., SD–538.

Committee on Commerce, Science, and Transportation: business meeting to consider pending calendar business, 9:30 a.m., SR–253.

Subcommittee on Communications, to hold hearings to examine Internet Corporation for Assigned Names and Numbers (ICANN), 2:30 p.m., SR–253.

Committee on Foreign Relations: Subcommittee on East Asian and Pacific Affairs, to hold a closed briefing on corruption in North Korea's economy, 2 p.m., S–407, Capitol.

Subcommittee on East Asian and Pacific Affairs, to hold hearings to examine corruption in North Korea's economy, 3 p.m., SD–106.

Committee on Governmental Affairs: to hold hearings to examine origination, organization and prevention in relation to terrorism financing, 10 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine solutions to the problem of health care transmission of HIV/AIDS in Africa, 10 a.m., SD–430.

Committee on the Judiciary: business meeting to consider pending calendar business, 9:30 a.m., SD–226.

Subcommittee on Administrative Oversight and the Courts, to hold hearings to examine the funding of forensics sciences, 2 p.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

9 a.m., Thursday, July 31

Senate Chamber

Program for Thursday: Senate will resume consideration of the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit, with a vote on the motion to close further debate on the nomination to occur at 10 a.m.; following which, Senate will continue consideration of S. 14, Energy Policy Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

4 p.m., Friday, August 1 *

House Chamber

* **Program for Friday:** The House stands adjourned until 4 p.m. on Friday, August 1, 2003, unless it sooner has received a message from the Senate transmitting an amendment to H. Con. Res. 259 in the form that was reported at the desk, in which case the House shall be considered to have concurred in such amendment and shall stand adjourned until 2 p.m. on Wednesday, September 3, 2003.

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