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House of Representatives

The House met at 8:30 a.m. and was called to order by the Speaker pro tempore (Mr. KIRK).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 15, 2004.

I hereby appoint the Honorable MARK STEVEN KIRK to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God,

Your steadfast love stirs us to look beyond self-interest. Your Divine Providence has guided this Nation from the beginning and has always urged us to look beyond our frontiers. Your Spirit in gathering the 108th Congress today moves us to have great aspirations for this world and for our times.

Having tasted Your blessings of freedom ourselves, we long for all humanity to enjoy equal justice under law and so we pray this short but powerful ancient psalm:

''O praise the Lord, all you nations,
Acclaim the Lord all you peoples.
Strong is his love of us;
Our God is faithful forever.''

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. CUNNINGHAM) come forward and lead the House in the Pledge of Allegiance.

Mr. CUNNINGHAM led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that during the joint meeting to hear an address by His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan, only the doors immediately opposite the Speaker and those on his right and left will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance that is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

The practice of reserving seats prior to the joint meeting by placard will not be allowed. Members may reserve their seats by physical presence only following a security sweep of the Chamber.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, June 8, 2004, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 34 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 9:21 a.m., the following proceedings were had:

□ 0921

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY HIS EXCELLENCY HAMID KARZAI, PRESIDENT OF THE TRANSITIONAL ISLAMIC STATE OF AFGHANISTAN

The Speaker of the House presided.

The Deputy Sergeant at Arms, Kerri Hanley, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort His Excellency Hamid Karzai, the President of the Transitional Islamic State of Afghanistan, into the Chamber:

The gentleman from Texas (Mr. DELAY);

The gentleman from Missouri (Mr. BLUNT);

The gentlewoman from Ohio (Ms. PRYCE);

The gentleman from California (Mr. COX);

The gentleman from Florida (Mr. GOSS);

The gentleman from California (Mr. ROHRABACHER);

The gentlewoman from California (Ms. PELOSI);

The gentleman from Maryland (Mr. HOYER);

The gentleman from New Jersey (Mr. MENENDEZ);

The gentlewoman from California (Ms. HARMAN);

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The gentleman from Missouri (Mr. SKELTON); and

The gentleman from New York (Mr. ACKERMAN).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to escort His Excellency Hamid Karzai, the President of the Transitional Islamic State of Afghanistan, into the House Chamber:

The Senator from Tennessee (Mr. FRIST);

The Senator from Kentucky (Mr. MCCONNELL);

The Senator from Alaska (Mr. STEVENS);

The Senator from Pennsylvania (Mr. SANTORUM);

The Senator from Texas (Mrs. HUTCHISON);

The Senator from Arizona (Mr. KYL);

The Senator from Virginia (Mr. WARNER);

The Senator from South Dakota (Mr. DASCHLE);

The Senator from Nevada (Mr. REID);

The Senator from Louisiana (Mr. BREAUX);

The Senator from California (Mrs. BOXER);

The Senator from Illinois (Mr. DURBIN);

The Senator from Michigan (Ms. Stabenow); and

The Senator from New York (Mrs. CLINTON).

The Deputy Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, His Excellency Jesse Bibiano Marehalau, Ambassador of the Federated States of Micronesia.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Assistant to the Sergeant at Arms announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 35 minutes a.m., the Deputy Sergeant at Arms announced His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan.

The President of the Transitional Islamic State of Afghanistan, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and a personal pleasure to present to you His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan.

[Applause, the Members rising.]

ADDRESS BY HIS EXCELLENCY HAMID KARZAI, PRESIDENT OF THE TRANSITIONAL ISLAMIC STATE OF AFGHANISTAN

President KARZAI. Thank you for the great honor. Mr. Speaker, Mr. Vice President, Members of Congress, distinguished guests, the great people of the United States of America, it is my distinct honor to speak on behalf of the Afghan people in this august assembly.

I thank you and the people of this great country for your generosity and commitment to our people. You have supported us with your resources, with your leadership in the world community and, most importantly, with the precious lives of your soldiers.

With your support, Afghanistan has accomplished a number of significant achievements. We have begun to rebuild our schools. Over 5 million children, boys and girls, attend schools across Afghanistan. We have also commenced to develop health centers to provide basic services to our people, especially to our women and children, who have suffered the most during the decades of war and turmoil. We have embarked upon the reconstruction of our roads to encourage traders and businessmen to transport products to markets.

We have started to reconstitute our national army, our national institutions, national police, in order to both defend our sovereignty and provide security to our citizens. Our national army is being trained by American forces, American troops, and wherever we have deployed them the Afghan people have welcomed them. We have initiated the fight against narcotics to save our children, to save your children and children across the world from the evil of addiction to drugs.

The confidence of our citizens in the future of our country is clearly signified by the return of 3 million refugees in the past 2 years.

Once again, ladies and gentlemen, Afghanistan is the home of all Afghans. We have today in Afghanistan our former king back in his old home. We have today in Afghanistan the leaders of the former resistance of Afghanistan against the Soviet Union. We have also millions of refugees who have left Afghanistan because of tyranny and invasion. They are all back in their country, and more are returning.

Ladies and gentlemen, Afghanistan has emerged from a very dark era, one of oppression and terror. We have adopted an enlightened Constitution, establishing a democratic Islamic government. It guarantees equal rights and equal protection for every citizen of our country. With your support, men and women of Afghanistan have now equal rights before the law and the Constitution. The new Constitution replaces the Taliban-imposed gender discrimination by assigning 25 percent of the seats in our future parliament for women. Together we have furthered democracy by creating a climate where 35 percent of the voters so far registered for our election are women. And as I speak today, ladies and gentlemen, I received a report this morning from the election commission in the central part of the country that the registrators for voting are more than 50 percent women, and in the rest of the country they are more than 30 percent. As this process continues through September, we will have at least 6 to 7 million registered, and I am sure we will reach nearly 70 percent of them to be women.

We have secured and opened an inclusive society where minority languages are accorded official recognition and where the press enjoys unprecedented freedom.

We, the Afghan people, have once again established ourselves as a proud and sovereign nation. Without your support and commitment and without the partnership between our two nations, none of this would have been achieved.

Ladies and gentlemen, together we have come a long way, but our common journey is far from over. Many obstacles exist, and numerous milestones remain to be reached before we can fully realize our shared vision of a stable, prosperous and democratic Afghanistan.

We have to travel further. Private militias pose a threat to the consolidation of stability and democracy in our country. They continue to oppress our people and challenge law, order and government authority. The Afghan people demand and insist on disarming and demobilizing private militias. Only with your support and that of the international community can we achieve this necessary goal.

We are also confronted with the evil of narcotics. Drug profits finance private militias, terrorists and extremists. Drug profits undermine our efforts to build a healthy and legitimate national economy. Drugs threaten the lives and future of children, yours and ours. We are determined to cleanse Afghanistan from this menace.

In the economic dimension, despite our achievements over the past 2½ years, we continue to be one of the poorest countries. We still have the second highest infant and maternal mortality rates in the world. We have one of the highest illiteracy rates. Very few Afghans have access to safe drinking water. While our country has rich hydroelectric potential, oil, gas and coal reserves, only 6 percent of the Afghans have reliable access to electricity. While Afghanistan has great rivers, our farmers ironically suffer from a shortage of water. Even now our vast mineral resources such as iron ore, copper and precious stones remain undeveloped. Our delicious fruits are not reaching major markets due to the lack of refrigeration and proper marketing.

Ladies and gentlemen, these are significant impediments, yet we are confident that with your continued support and commitment, we, the Afghan

people, will overcome them as we have triumphed over other challenges in the past 2 years. To succeed, we ask for your continued investment. Afghanistan is open for business and American companies are most welcome. Together we will make Afghanistan a great success and an enduring example of a prosperous democratic society.

Our shared success in Afghanistan is vital to achieving victory over the greatest menace the world faces today, terrorism and extremism.

Long before the horrific tragedy of September 11, terrorists subjected the people of Afghanistan to unspeakable brutality and oppression. Even though we were among the most pious Muslims in the world, we were the first and foremost victims of al Qaeda. In the name of Islam, a religion of peace and tolerance, they terrorized and killed the Muslim people of Afghanistan and deprived us of our basic rights. These atrocities continued for many years, and the world remained unengaged.

The tragedy of September 11 once again tied the destinies of our two nations. You came to Afghanistan to defeat terrorism, and we Afghans welcomed and embraced you for the liberation of our country. Together we ended the rule of terrorism.

Ladies and gentlemen, this was not the first time America confronted a great evil and rescued the world. Two weeks ago, on Memorial Day, you remembered the hundreds of thousands of American soldiers who gave their lives for defending democracy and freedom around the world. You led the world in eliminating fascism. You stood with the Afghan nation in our heroic fight against the former Soviet Union. Just last week, we honored one of our great fellow freedom fighters in that struggle, the late President Ronald Reagan.

Today, the United States is once again leading the global effort to defeat terrorism and extremism. Afghanistan is a central front in the war against terrorism. The Afghan people are and will remain with you in this struggle.

Ladies and gentlemen, in this great Chamber, in the House of the American people, democracy and liberty thrive. Afghans are honored to have become partners in this noble tradition. The Afghan people will not forget your help and will always remember and cherish your friendship. The Afghan people desire to further build on this solid foundation of mutual trust and friendship by creating a strong partnership between our two nations.

We must build a partnership that will consolidate our achievements and enhance stability, prosperity, and democracy in Afghanistan and in the region. This requires sustaining and accelerating the reconstruction of Afghanistan through long-term commitment, a free trade agreement between the United States and Afghanistan, and providing incentives to the private sector for investing in Afghanistan. We must enhance our strategic partnership. The security of our two nations is intertwined.

In December of 2001, a U.S. bomb went astray and exploded a few meters from where I was staying. This was the last day of our resistance against the Taliban. This was the day that the Bonn process announced me as the chairman. This was the day the Taliban were to come and surrender. This was also the day that the stray bomb came to us and killed more than 20 of my people and also four U.S. soldiers. In the midst of all that confusion and pain, an old man walked up to me. I did not know him. I had not seen him before, and I have not seen him since then. He came to me and said, ''Mr. Karzai, go to the Americans. Tell them that in a war like this, things like that happen. Tell them not to lose heart. Tell them that we shall continue to fight and we must win.''

Ladies and gentlemen, upon my arrival in the United States last week I stopped at Fort Drum, New York, to meet some of your troops who had served in Afghanistan. Senator CLINTON graciously came to receive us. We honored two American soldiers who recently returned from Afghanistan and who a few months ago in Kandahar were traveling in a vehicle. Somebody, a terrorist, threw a grenade at them. The grenade landed in their vehicle. They took the grenade. Instead of throwing it into the street where there were people around them, civilians, these heroic men stuck the grenade under their seat. The grenade exploded. Fortunately, they survived. But they were badly injured. To us, this was also an example of heroism and care for humanity, and we are proud of these two American soldiers. These stories tell a tale of partnership, tell a tale of joint struggle, tell a tale of care and courage and care for humanity.

Ladies and gentlemen, together we have a long road ahead, but we will move forward to make the world a better place. For us in Afghanistan, we remember you for every help that you have given us, and we will have that in our books written in golden letters. This road, this journey is one of success and victory. We will continue to triumph and win the war against terrorism and make the world a better place for us and the rest of the world. May God bless America and Afghanistan and our two nations. Thank you very much.

[Applause, Members rising.]

At 9 o'clock and 56 minutes a.m., His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Deputy Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Acting Dean of the Diplomatic Corps.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 9 o'clock and 58 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until 10:30 a.m.

□ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 10 o'clock and 30 minutes a.m.

PRINTING OF PROCEEDINGS HAD DURING THE RECESS

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

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

There was no objection.

CONTRIBUTION OF AMIGOS FOR KIDS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute.)

Ms. ROS-LEHTINEN. Mr. Speaker, our children are the hope of our world. ''Los ninos son la esperanza del mundo,'' said Jose Marti, the Cuban freedom fighter; and from humble beginnings that helped to form their character, they become tomorrow's leaders.

Amigos for Kids, a most worthy nonprofit organization in my hometown of Miami, Florida, is helping our precious youth to realize their true potential, a potential that may never have been uncovered without the intervention of such esteemed individuals such as Jorge Plasencia, a dear friend of mine and cofounder of the organization.

Jorge is an outstanding member of our south Florida community and founded Amigos in response to the diverse needs of the abused, neglected, and less fortunate children and their families. Throughout his 13-year history, Amigos has come to the aid of many of the children through education, prevention and community involvement. Jorge's hard work with Amigos is a testament to his strength and unwavering commitment to our cherished children.

Muchisimas Gracias, Jorge. Thank you so much for your help to our south Florida's children.

APPRECIATION FOR THE WORDS OF PRESIDENT KARZAI

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it gives me great pleasure to add my appreciation and applause for the words of President Karzai of Afghanistan. We had the great pleasure as members of the Afghanistan Caucus, the gentleman from Ohio (Mr. NEY) the Chair, and myself as cochair, along with other Members of Congress, the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from South Carolina (Mr. WILSON) to visit most recently in Afghanistan and to see the real examples of progress that have been made and particularly the provisional reconstruction teams of our military who are engaged in building clinics and schools, hospitals and homes.

We do know that there is more work to be done. There is work to be done with the warlords and the militias. It is imperative that we stay the course as it relates to the war on terror in Afghanistan and to focus on not having distractions that keep us from finishing our commitment there. It is not going to be easy to have unfettered elections, safe elections; and it will take the will of the people of Afghanistan as well as the will of this Nation.

At the same time, I would hope that we would focus on other issues of concern as we work toward a free and independent and secure Afghanistan.

DRILLING IN ANWR

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

Mr. BURGESS. Mr. Speaker, energy and independence should be a goal of this Congress. Worldwide demand for petroleum has increased in the last decade. The growth in production has been relatively flat. The inevitable result is in higher prices at the gasoline pump. This reality is that it takes time to go from an oil field to the gasoline station, and we have lost a considerable amount of time.

In 1995, the 104th Congress passed H.R. 2491, which would have allowed oil exploration in the Alaska National Wildlife Refuge. The Department of Energy has estimated that between 1 and 1.3 million barrels of oil a day could be derived from this source.

Unfortunately, this legislation was vetoed by President Clinton, and that was nearly 10 years ago. Given a time line of 7 to 14 years for building a pipeline structure, it is time we could scarcely afford to waste.

Mr. Speaker, I have been to ANWR. The vast coastal plain is unsuitable for habitation during the summer months because of the marshy consistency of that plain. Any caribou unlucky enough to calve in this region would likely die from exsanguination at the hands of mosquitoes there.

The people who live in ANWR are counting on this Congress to do the right thing and allow them, the rightful owners of these mineral rights, to begin developing resources.

WE NEED A PRESIDENT NOT TIED TO THE OIL INDUSTRY

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

Mr. MCDERMOTT. Mr. Speaker, the administration's energy program will be rubber stamped once again by this Congress. It is the rubber stamp Congress; anything the president wants, they get it.

Let me summarize it. The Vice President holds secret meetings with oil representatives, and then gas prices soar to the highest levels in two decades; American consumers pay $25 billion more; oil companies make $34 billion more; oil company profits increase 165 percent at one company and 294 percent at another company; and now the administration wants to drill in ANWR, the fragile Arctic National Wildlife Reserve.

At this rate, the administration will make an oil drilling rig part of the new Visitor's Center complex out in front of the Capitol.

This administration has sold out the American people to big oil. It is time for that well to run dry before there is more damage to the wallet of American consumers or the fragile environment that we need to protect. We need a President who is not tied to the oil industry.

CALLING FOR A COMPREHENSIVE ENERGY POLICY

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

Mr. EMANUEL. Mr. Speaker, last week the Associated Press reported that Iraqis are paying 5 cents for a gallon of gas; 5 cents, a nickel. Why are the Iraqis getting such a good deal while the rest of the world has an energy crisis? Because the American taxpayer is subsidizing the Iraqis to the tune of $167 million a month so they can get discounted gasoline. This comes to $500 million every 3 months, $1 billion every 6 months, $2 billion over the year.

Here in America, hard-working families are paying close to $2, if not more, per gallon, up 50 cents since the beginning of the war in Iraq.

Since this is energy week here in Congress, what are we doing? We are bringing up a piece of legislation that a Republican Senator dubbed the ''No Lobbyist Left Behind'' bill for the energy industry. For too long, this administration has two sets of books, and values: One for Iraq and one for America.

We cannot deny Americans the same dreams of affordable health care, quality education and affordable energy that we promise Iraqis. The same values that we hold for Iraq, we must pledge to Americans.

Mr. Speaker, this week we should work to solve the Nation's energy needs, and not retread bad policy.

AMERICANS TIRED OF BIASED, LIBERAL, SHODDY NEWS REPORTING

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

Mr. KINGSTON. Mr. Speaker, last week on the evening news, Dan Rather, nicknamed ''Rather Biased'' by those of us who are conservative or those of us who just like fair reporting in general, spent 2 minutes reporting a story about 1,300 layoffs in Ohio. That certainly is something that is of concern, and yet at the same time he only spent 20 seconds reporting that 947,000 new jobs have been created in the last 3 months.

I realize that the media loves to dwell on the negative, but they also completely can ignore the fact that the unemployment rate is down to 5.6 percent, which is a lower rate than it averaged in 1970s, 1980s and 1990s; home ownership has risen to its highest level at 68 percent; and real disposable income is up nearly 4 percent this year. The economy is coming back and coming back strong, and yet the media still wants to dwell on the negative.

But then again it is no surprise. Their real goal is not journalism, but to get JOHN KERRY elected president. No wonder Fox, ''fair and balanced news,'' has come on as one of the strongest cable networks that there is, Mr. Speaker. I think Americans have absolutely had enough with biased, liberal, shoddy reporting.

PROVIDING FOR CONSIDERATION OF H.R. 4513, RENEWABLE ENERGY PROJECT SITING IMPROVEMENT ACT OF 2004, AND H.R. 4529, ARTIC COSTAL PLAIN SURFACE MINING IMPROVMENT ACT OF 2004

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 672 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 672

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4513) to provide that in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 with respect to any action authorizing a renewable energy project, no Federal agency is required to identify alternative project locations or actions other than the proposed action and the

no action alternative, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Resources; (2) the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, if offered by Representative Pombo of California or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for ten minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4529) to provide for exploration, development, and production of oil and gas resources on the Arctic Coastal Plain of Alaska, to resolve outstanding issues relating to the Surface Mining Control and Reclamation Act of 1977, to benefit the coal miners of America, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, with 50 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources and 10 minutes equally divided and controlled by chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment in the nature of a substitute printed in part B of the report of the Committee on Rules accompanying this resolution, if offered by Representative Pombo of California or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for ten minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

□ 1045

The SPEAKER pro tempore (Mr. BASS). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

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

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 672 is a modified, closed rule that provides for consideration of H.R. 4513, the Renewable Energy Project Siting Improvement Act of 2004; and H.R. 4529, the Arctic Coastal Plain and Surface Mining Improvement Act of 2004.

For consideration of H.R. 4513, the rule provides 1 hour of general debate and makes in order the manager's amendment printed in part A of the Committee on Rules report. The rule provides one motion to recommit with or without instructions.

For consideration of H.R. 4529, the rule provides 1 hour of general debate and makes in order the substitute amendment printed in part B of the Committee on Rules report. The rule also provides one motion to recommit with or without instructions.

Mr. Speaker, energy diversity is vital to our economy and our national security. We must continue to explore affordable and sustainable power supplies. Whether we look to wind, solar, biomass, or geothermal energy, we ought to have a straightforward method for granting project approval to future energy activities.

H.R. 4513 streamlines the process by which environmentally responsible renewable energy projects are considered and approved by Federal agencies holding jurisdiction over the project. The current system of environmental review does not allow for an expedited process in approving or disapproving a submitted project. By simplifying the review procedures, we can improve protection for the environment by directing our efforts to the most reasonable projects.

Since renewable energy projects are largely ''place-based,'' occurring in the area where the resources are found, the only decision needed is whether to authorize or not authorize the proposal. The agency should reply simply on the merits and the environmental effects of the proposal.

The provisions of H.R. 4513 also succeed in protecting capital investments by reducing the regulatory risk of doing business. The restructured system of approval will encourage the commitment to capital, to alternative energy sources without fear of extensive litigation, requiring commonsense analysis; modification through mitigation; and, if mitigation is not good enough, denial of the permit.

Mr. Speaker, just as important as meeting our energy needs with affordable, reliable, secure, and sustainable power supplies, the underlying bill also creates jobs for Americans, from highly skilled labor to a stimulation of local construction and manufacturing jobs. In general, wind power creates 2.77 jobs for every megawatt produced; solar panels create 7.24 jobs per megawatt; and geothermal energy projects create 5.67 jobs per megawatt.

The commonsense changes in the underlying bill are good for our economy, while being good for our environment.

Mr. Speaker, the second bill brought for consideration under this rule is H.R. 4529, the Arctic Coastal Plain and Surface Mining Improvement Act of 2004. The bill establishes a competitive oil and gas leasing program for exploration, development, and production of oil and natural gas resources on the Coastal Plain of the Arctic National Wildlife Refuge.

This area is the largest unexplored, potentially productive on-shore basin in the United States. And the development of the coastal plain could significantly reduce our Nation's dependency on foreign resources. In fact, it is estimated that we could produce between 1 million and 1.5 million barrels of oil a day, the equivalent of 1 million to 1.3 million barrels of oil we currently import daily from Saudi Arabia.

Under H.R. 4529, additional requirements are established to ensure that oil and natural gas activities do not have significant adverse effects on wildlife and the environment. It ensures that the best commercially available technology is utilized to achieve these environmental protections.

Furthermore, not only is there a limit of 2,000 acres surface disturbance, but the Secretary of the Interior may also designate up to 45,000 acres on the coastal plain as protected for unique or sensitive areas. These environmental controls would be the strongest ever adopted into Federal law and would not interfere with any existing State or Federal regulations.

Exploration and future development of the coastal plain also generates jobs. Based on potential sales by oil and gas producers and field surface companies, estimates show that the possible job creation is in the tens of thousands.

Mr. Speaker, in addition to conservation and development of alternative energies, any comprehensive and sensible energy plan must include increased domestic production to reduce our reliance on foreign oil. The House recognized that fact when we passed an energy conference report with strong bipartisan support of 246 to 180.

The case for increasing domestic production is compelling. In 2004, the United States relied on foreign imports for 62 percent of its crude oil needs; and according to the Energy Information Administration, that will increase to 70 percent by the year 2025. Even during the oil embargo and subsequent energy crisis in 1973, imports accounted for only 35 percent of the U.S. crude oil.

Since 2001, consumers have seen the average price of a gallon of gasoline increase by 52 percent and home heating oil by 33 percent. The price of a barrel of oil increased by 74 percent during that time, from just over $23 a barrel in 2001 to more than $40 a barrel today. To ease that dependency in just the past 3 years, we have twice approved legislation allowing for the development of the coastal plain. It is time to finally move forward to reduce our Nation's foreign dependency and explore our oil and gas production on the coastal plain.

H.R. 4529 also reauthorizes the Abandoned Mine Claims Program, the AML, for an additional 15 years. This bill continues the industry's commitment to the remediation of abandoned mines which protects communities all across this Nation. Unused mines can sometimes appear to be adventurous places, especially for children. Yet they are actually extremely dangerous and cause too many needless deaths each year. The reclamation of these mines is essential to keep the communities around unused sites as safe as possible.

H.R. 4529 additionally resolves the historic State share reclamation funding issue by providing for reimbursement of funds owed to States.

Another key component of the legislation provides for the permanent solvency of the Combined Benefits Fund, which provides health care benefits for retired miners and their dependents. This will be achieved with a Federal share of money received from future oil production on the coastal plain, providing long-term solvency for the Combined Benefits Fund and future health care premiums of those coal miners currently being funded by the so-called ''reachback'' companies.

Mr. Speaker, the Committee on Resources, in consultation with the Committee on Ways and Means, has worked on these commonsense and fair reforms for some time, and I would like to commend both the chairmen and the ranking members of these committees for their tireless support of so many issues surrounding our Nation's energy resources and ask my colleagues to support the underlying bills.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS), my friend, for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong opposition to this closed rule and the two underlying resolutions. Let me say that one more time: the two underlying resolutions.

It is double-coupon day here in the House of Representatives. In two separate instances today, Republicans are forcing the House to consider two bills under one rule. Adding insult to injury, every rule we will consider today is closed, and none of the underlying bills have been considered in substantive part by the respective committees of jurisdiction.

With the exception of two manager's amendments, this rule allows for zero amendments to either bill. Zero amendments for the people's House to consider. Zero amendments to improve two bills that incorporate in the main only the ideas of their two sponsors without the input of anyone else.

The majority has skirted the legislative process, shut Members out, and stifled debate before it even begins. All this so it can pass a few politically driven bills that do nothing to address escalating gasoline costs and have zero chance of becoming law. Even the chairman of the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON), said last night in the Committee on Rules that he thought bringing these bills to the floor prior to committee consideration was shortsighted.

Just last week, Congress heard calls from the American public to set aside its differences and work in a bipartisan fashion. How short Republican memories are.

The rule we are considering at this moment is almost oxymoronic. On one hand, the rule provides for consideration of a bill addressing renewable resources. On the other hand, the same rule provides for consideration of another bill that authorizes drilling for nonrenewable resources in the Arctic National Wildlife Refuge, one of the country's most pristine areas. Republican policies just do not make any sense. While I certainly commend the majority for finally jumping on the renewable resource band wagon, their approach toward energy policy greatly misses the mark.

Each energy-related bill this body is considering today focuses on increasing production, while doing nothing to curb consumption. These bills abandon our responsibility to protect the environment, and they lay the groundwork for the construction of a new wave of refineries and energy plants in low-income and historically underserved areas, without protecting the health and well-being of the residents of these communities.

The Renewable Energy Project Siting Improvement Act and the U.S. Refinery Revitalization Act, which will be considered under the next rule, unjustly streamline the Federal authorization process for new refineries by targeting low-income and high unemployment areas for new sites.

I offered an amendment to the U.S. Refinery Act last night in the Committee on Rules that would have required the Secretary of Energy to just consider any adverse effect that the siting of a new refinery would have on the community in which the site would be located. It also required a 90-day public comment period to ensure that those living near a future refinery site be given an opportunity to voice their concerns.

Mr. Speaker, we all know the effects that Superfund sites have had on underserved communities. We have all heard the stories of cancer, birth defects, prolonged illnesses, and death caused by contamination at these sites.

□ 1100

Today, this body is laying the foundation for a new wave of Superfund sites and all of their downfalls. My amendment was fair and responsible to those who will be most affected by a new site. But as they so often do, the majority denied the House from considering a common sense amendment. In this case, Democrats are only secondary victims. The real victims are those who could soon find themselves living next to a new refinery which the Federal Government encouraged an energy corporation to build. Moreover, under this scenario, Congress is not taking the necessary steps to consider the health needs of those living in that community.

Mr. Speaker, Congress has a responsibility to the American people to develop and implement a responsible and long-term energy plan. Democrats agree with Republicans on this. However, Democrats also believe that all of us, from both sides of the aisle, need to be involved in the discussion. Our long-term energy plan must focus on reducing consumption instead of increasing production. America's energy woes will continue until we change America's mindset. Mass transit, hybrid automobiles, increasing CAFE standards, and significant involvement in renewable resources are the only way we will accomplish this.

I was saying to staff working with me that 40 years ago I ran for the State legislature in Florida, and what I was advocating at that time was not rocket science. Forty years ago I talked about us having mass transit and using solar energy and using wind and renewable resources. Forty years since I now am in the House of Representatives and what we were still doing is talking rather than acting on the consumption side trying to reduce same. None of the underlying pieces of legislation address any of these issues and the process in which they are being brought to the floor is downright reckless, and we continue this policy which began a few weeks back of bringing up separate bills under the same rule. Any bill, any bill that blocks Members of the House of Representatives, the people's House, from offering an amendment is closed. And Republicans have made it clear that debate on the House floor is not open for business. I think that that is a mistake on their behalf and I hearken back to my friends in the majority and how it was that they railed against Democrats in another era for closed rules. That is all you could hear on talk radio, closed rules.

Well, I can tell the American public that all you are getting from this Republican majority are closed rules, which shuts out debate not only of Democrats but Republicans. This is the people's House and closed rules do not give the people their voice.

I urge my colleagues to reject this rule and the underlying pieces of legislation.

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

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

Mr. Speaker, my colleague the gentleman from Florida (Mr. HASTINGS) covered a lot of ground in his opening remarks, and I think with the basis of the four bills that we were considering we need to review a few things to set the record clearly straight.

First, the gentleman and I agree. There should be an energy policy. This House had ample debate on an energy policy. The other body had ample debate on an energy policy. And then we came together as we sent our conferees with the other body's conferees and we came together with a hammered agreement between the two bodies. The House passed that agreement and the House bills were met with the Democratic minority's obstructionism in the other body. And if we would have had a comprehensive energy policy in 2001, we would not have some of the problems we have here today.

The average price of a gallon of gasoline has increased by 52 percent, from $1.34 a gallon in 2001 to $2.05 today. U.S. imports of oil have increased by more than 10 percent. The price of a barrel of oil increased by 74 percent from just over $23 a barrel in 2001 to more than $40 a barrel today, all while the Senate obstructionism on the Democratic side held up an ample debate of the conference committee report.

The cost of home heating oil, which has a real impact to the Northeast where I come from, has increased by more than 33 percent since 2001. The cost of natural gas to heat America's homes has increased by 92 percent. The U.S. has sent more than $300 billion to foreign nations for oil. This amounts to a massive export in American jobs, national security and our economic growth and vitality.

The Federal Reserve Chairman Alan Greenspan has recently testified that energy prices are the single greatest threat to job creation and to the continued growth of an otherwise burgeoning economy. And so if the gentleman from Florida (Mr. HASTINGS) agrees with me that we should have an energy policy then it would have been nice to see a conference report just passed by the other body and we would have law today.

But now when we look at four pieces of legislation established under two rules, I will remind my colleagues that while the gentleman from Florida (Mr. HASTINGS) was discussing his amendments, it was for another rule that will come behind there. It was not on the rule that we are now considering in the debate before us. As a matter of fact, in addition to the two manager's amendments which the rule provides for, there was only one other amendment and it was offered by the gentleman from Pennsylvania (Mr. KANJORSKI), and I wanted to find why in my view as a member of the Committee on Rules it was not made in order. And so again in the legislation before us there was only one other amendment that came before the Committee on Rules other than the two manager's amendments, the gentleman from Pennsylvania's (Mr. KANJORSKI). And what it did in the amendment, instead of paying the combined benefits fund through the Federal share of money received from future oil production on the coastal plain, the Kanjorski amendment would provide tax credits to the States to bond the issue.

This approach would amount to an estimated $20 billion in bonds, which scores at about $7 billion. In contrast, the approach used in the underlying bill costs only an estimated $2 to $3 billion, which is not only a substantial decrease in the cost to the Federal Government but it is paid for.

As we look at the debate that this body has had on energy policy on the ANWR issue, the full Committee on Resources had a hearing in March of 2003. There was a full committee markup on the overall energy package, including ANWR. The House then approved the energy bill with ANWR in it in April of 2003 and the previous House vote on ANWR was in 2001.

When we look at the AML issue, which is included in the rule today, H.R. 313, the Coal Accountability and Retired Employee Act of the 21st Century, was introduced by the ranking member of the Committee on Resources and is a major component to this ANWR/AML bill.

On October 1, 2003 the full Committee on Resources considered that bill. No amendments were offered and the bill was favorably reported to the House by unanimous consent. H.R. 3796, the Abandoned Land Mines Reclamation Reform Act of 2004, and H.R. 3778, the Abandoned Mine Reclamation Program Extension and Reform Act of 2004, were both subject to a Subcommittee on Energy and Mineral Resources hearing on March 30, 2004. Portions of each of these bills are included in the text of this ANWR/AML bill.

Finally, on the renewable energy portion that is in this rule, not to be debated in the next rule, the H.R. 1904, the Healthy Forest Restoration Act, discusses the NEPA in that it reduces the number of alternatives that the decision maker has to choose from, and our program of renewables bill draws upon the very same concept.

Mr. Speaker, it is clear that in the two bills before us there has been an ample debate by this body on times before. There have been hearings. And in addition we had an ample Committee on Rules forum yesterday where hearings were held and rules were sent to the floor of these two pieces of legislation which are for consideration today as we have outlined, 4513 and 4529, of which there was only one amendment, which was a far more expensive plan than what is before us in the underlying legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me discuss in calm reflection my colleague from New York's comments.

Firstly, he and I were at the Committee on Rules hearing last night and my recollection of the two distinguished chairs, the gentleman from Texas (Mr. BARTON) and the gentleman from California (Mr. POMBO), was that they said that these matters as they are brought up on the substantive agenda did not go through regular order insofar as the committees of jurisdiction.

They did in fact say that the issues in both of these measures had been discussed. As a matter of fact, in the gentleman from California's (Mr. POMBO) case, he said that they had been discussed numerous times, and I would imagine some of the issues that the gentleman from Texas (Mr. BARTON) would agree as well. But regular order is what we are talking about here and the committee process was not observed as it pertains to these measures.

What I urge my friend who I serve proudly with on the Committee on Rules is to pay attention to the comments of the chair of the Committee on Rules in another era. What he said was if a rule is not open it is closed and it is just that simple. So I do not understand why we keep playing games of disingenuousness in trying to suggest to the American public that these measures that are coming up are giving every Member of the House of Representatives an opportunity to discuss them and that regular order proceeds.

Additionally, my friend spoke of the other body in terms that I probably could have pointed out to him that it is one thing to say that there is obstruction in the other body, but the last time I looked the majority leader was a Republican and the executive branch of government is in the hands of the Republicans and the House of Representatives is in the hands of the Republicans. So when we talk about obstructionism, I do not think Democrats can be faulted for Republicans not being able to get their measures past their bodies.

But now what are we doing here? Let me tell you what we are doing, and no lesser authority than our good friend, the gentleman from Alaska (Mr. YOUNG) in speaking to reporters, he is quoted as saying, and the backdrop for this is the U.S. House of Representatives may vote today to send oil drills into the Arctic National Wildlife Refuge. But the gentleman from Alaska (Mr. YOUNG) is not expecting any backup from the Senate. Young said he viewed the idea as serious but not likely to succeed. The Senate is not going to take it up, so what are we doing here? Are we doing something political or are we doing something to bring down oil prices? Are we doing something political or are we doing something to give the American public the impression that we are doing something about renewable energy? Are we doing something political or are we really going to go after solar and wind resources? Are we doing something political or are we really going to advance hybrid automobiles in this country?

It is funny to me how my former fiscal conservative friends are now decrying our state of this Nation as they run these deficits up and as gas prices go through the roof, and we were here talking about projections for additional instructions to give us an opportunity to produce more energy rather than to learn how to consume less and use modern technology in doing so.

This rule is closed and I urge Members to vote against it.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The Chair intended, before the remarks of the gentleman from Florida just completed, to admonish Members

to avoid improper references to the Senate, as by characterizing its actions as obstructive.

PARLIAMENTARY INQUIRY

Mr. HASTINGS of Florida. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HASTINGS of Florida. The way the Chair phrased it, I did bring it up, and we were talking about statements that were made by my friend from New York; am I correct?

The SPEAKER pro tempore. The Chair referred to statements made prior to the comments by the gentleman from Florida.

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

Mr. Speaker, I listen to my colleague talking about regular order and then I do not know, as he has quoted my chairman of the Committee on Rules on, it is either a closed rule or an open rule, but I know the chairman when I was a new member 6 years ago took great pains to guide me on the fact that there is open rules, there is modified rules, there is modified open rules, modified closed rules, structured rules, closed rules; and he began to teach how each one becomes effective and appropriate in doing its duties for the Committee on Rules. But as I listen to my colleague here talk about whether this is political or whether it is governmental, I look and say, great debate in 2003 on energy policy and most people saying that they agreed that there was not an energy policy in the Clinton administration or the Bush 41 administration, and that this President asked the Congress to move forward and establish an energy policy in America.

□ 1115

We had the hearings. We had the debate in the House and the other body had their debate, and as I said earlier in my remarks, we approved conferees to go work with the other body's conference, to have the conferees come together if they could, and they did. We negotiated. This body did not get all they wanted. The other body did not get all that they wanted, a true compromise; and we passed the conference report in this body in a bipartisan fashion.

The other body, they were in a situation where because of the unusual rules that might be foreign to us that exist in the other body, they have got to have 60 votes to stop the debate on an energy policy that was agreed to by a conference of this body and the other body, they could not come up with two extra votes. If my colleagues look, it was a pretty partisan decision.

The reality is as we come down to it is the other body has not done its work.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The gentleman will suspend.

The Chair must caution the gentleman against making improper references to the Senate. Any characterization of the Senate is out of order.

Mr. REYNOLDS. Mr. Speaker, point of order, I just would like to be able to explain in this debate to my colleagues how we might say that it has not been on the floor because they cannot get it there. I am looking for any direction there could be because it just plain has not been voted on by the Senate.

The SPEAKER pro tempore. The gentleman's factual descriptions are fine, but characterizations should be avoided.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from New York yield to the gentleman from Texas for that purpose?

Mr. REYNOLDS. Mr. Speaker, I would yield.

The SPEAKER pro tempore. The gentleman may state his inquiry.

Mr. BARTON of Texas. Mr. Speaker, under the rules of the House, is it inappropriate to state a bald fact about what the other body is doing or not doing?

The SPEAKER pro tempore. Would the gentleman restate his question?

Mr. BARTON of Texas. Under the rules of the House, is it inappropriate or without our bounds for a Member of this body, the House of Representatives, to state a plain fact about what the other body is or is not doing? Is that out of the bounds for the rules of this body?

The SPEAKER pro tempore. A factual description of a Senate action of record is permitted.

Mr. BARTON of Texas. Is permitted. I thank the Chair.

The SPEAKER pro tempore. The gentleman from New York may proceed.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, in the body of that conference, were Democrats permitted in that conference?

Mr. REYNOLDS. Were they what?

Mr. HASTINGS of Florida. Were Democrats permitted to attend the conference that the gentleman continues to say was reported out, House Democrats?

Mr. REYNOLDS. Mr. Speaker, to be quite frank, I know many in my district do not really understand this body and the other body. So I am trying to follow the spirit of the law. I do not know if I can answer the gentleman's question.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the rule; but before I speak in favor of the rule, I would like to answer my good friend from Florida's question.

Conference members of the other body, who are members of the minority party in the other body, not only attended the conference on the comprehensive energy report; several of them signed the conference report for the comprehensive energy bill that was not debated on the other body's floor because of a cloture rule in the other body that required 60 votes to close off debate.

I want to rise in support of the pending rule for the two resource bills that, hopefully, will come up later today if the rule passes; and I want to specifically speak about the second bill that would allow for drilling in ANWR.

Back in 1995 during the reconciliation process, the House and Senate agreed to put in a provision that would allow drilling in ANWR. That was back in 1995. If President Clinton had not vetoed that bill, the mid-case estimate is that we would be producing from ANWR today between 1 million and 1½ million barrels of oil per day. It is estimated that there are over 10 billion barrels of oil in ANWR. What that would do for gasoline prices is debatable in terms of the specific amount, but it is not debatable that gasoline prices would be lower and, in all probability, significantly lower.

So I would hope that when this bill comes up for a vote on final passage that a bipartisan coalition in the House will once again vote to allow, with adequate environmental protections, drilling in ANWR. That is the largest oil field in the world that we know of that currently no drilling is allowed; and with gasoline prices at $2 a barrel, it is time to allow some drilling.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume merely for the purpose of pointing out to the chairman and my good friend, the gentleman from New York (Mr. REYNOLDS), that House Democrats were not permitted to be involved in the conference, House Democrats, not the other body.

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

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

The one thing we should look at is, I am told that from time to time the minority Members of the other body have not gone to conferences. So I am not sure that other than watching that happen, there is anything we can do about it, whether they participate or they do not.

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

Mr. HASTINGS of Florida. I yield myself such time as I may consume, and I do not want to belabor this. What part of House Democrats does my colleague not understand?

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

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

The two bills before us make sense on U.S. energy policy. They make sense for our economy, and they make sense for our environment.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

PROVIDING FOR CONSIDERATION OF H.R. 4503, ENERGY POLICY ACT OF 2004, AND H.R. 4517, UNITED STATES REFINERY REVITALIZATION ACT OF 2004

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 671 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 671

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4503) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources; and 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4517) to provide incentives to increase refinery capacity in the United States. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

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

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 671 is a rule providing for the consideration of H.R. 4503, the Energy Policy Act of 2004; and H.R. 4517, the United States Refinery Revitalization Act of 2004.

The rule provides for 1 hour of general debate on H.R. 4503, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources, and 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule also provides one motion to recommit.

Section 2 of the rule provides for 1 hour of general debate on H.R. 4517 to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule also provides one motion to recommit H.R. 4517.

Mr. Speaker, the first bill provided for under the rule, H.R. 4503, reflects the conference report on H.R. 6 that passed the House this November by a vote of 246 to 180. It is a bipartisan, comprehensive energy plan that is focused on providing a secure and diverse energy supply for our Nation.

There is bipartisan agreement on this plan to modernize our power generation systems, improve conservation and promote the development of renewable energy resources. The predominant source of energy varies among the different regions of our country. The bipartisan energy plan is comprehensive and addresses energy produced from oil, natural gas, wind, biomass, solar, coal, nuclear, and hydro.

In my area, the Pacific Northwest, Mr. Speaker, our primary source of power comes from hydroelectric dams. Clean, low-cost hydropower was critical to building the Northwest's economy. Whether it was electricity to irrigate central Washington's farms or to build airplanes in Seattle, it was vital to our economy.

This bipartisan agreement includes reforms to the lengthy and costly dam relicensing process that is critical to maintaining our region's low-cost hydropower. Environmental protections are preserved while providing flexibility to reduce costs and delays. Getting this plan enacted into law will help keep prices lower for Northwest families and for job-creating businesses.

An adequate, affordable energy supply is vital for a growing economy and job creation, and we need to get this plan enacted into law.

Mr. Speaker, today, the United States imports nearly 60 percent of its oil. This energy plan contains provisions to reduce our dependence on oil from the Middle East. The second bill provided for under this rule, H.R. 4517, will also help increase our Nation's energy independence.

The United States Refinery Revitalization Act would responsibly encourage the opening of previously closed refineries in the United States and the construction of new refineries to increase the domestic supply of gasoline which would help lower the price at the pump.

American demand for gasoline and refined fuels currently outpaces the capacity of our Nation to produce these needed products, and consumption of gasoline is expected to rise as our economy grows over the next 2 decades. Our choice as a Nation is to either increase our dependence on foreign sources of fuel or to help ensure refineries are built in America, which will create jobs here rather than at refineries in other countries.

Mr. Speaker, it is time to act and get a bipartisan energy plan enacted into law. It is time to increase America's energy independence. Accordingly, I encourage my colleagues to support both the rule, H. Res. 671, and the two underlying bills, H.R. 4503 and H.R. 4517.

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. MCGOVERN. Mr. Speaker, I rise in strong opposition to House Resolution 671, which is the rule for the consideration of H.R. 4503, the Energy Policy Act of 2004, which is masquerading today as the energy conference report of 2003; and H.R. 4517, the U.S. Refinery Revitalization Act.

Mr. Speaker, this summer Americans all across the country are flooding into movie theaters to see the much-anticipated sequels to such blockbuster films as ''Shrek,'' ''Spider Man,'' and ''Harry Potter.''

□ 1130

So far the early reviews and box office returns for these sequels suggest Hollywood has actually managed to improve on the original versions by adding exciting new characters and interesting new plot lines.

Sadly, that is not so here in the House of Representatives. This summer, the Republican leadership is forcing us to vote on the same tired old reruns of bad bills that we have already seen and voted on once before. The consideration of H.R. 4503 actually marks the sixth time this year that this House has passed a bill for the second time.

Mr. Speaker, I include for the RECORD a listing of the bills that the House has voted on at least twice this year.

(1) Bankruptcy. The House passed its bankruptcy reform bill on March 19, 2003 (H.R. 975, vote No. 74) and passed it again on January 28, 2004 when it substituted the text of

the already-passed H.R. 975 into a non-controversial Senate family farmer bankruptcy bill (S. 1920, vote No. 10).

(2) Medical Malpractice. The House passed medical malpractice reform legislation on March 13, 2003 (H.R. 5, vote No. 64) and then passed it again on May 12, 2004, as part of the GOP's so-called ''health security agenda'' (H.R. 4280, vote No. 166).

(3) Association Health Plans. The House passed legislation creating Association Health Plans (AHPs) on June 19, 2003 and then passed the same bill again in May 13, 2004, as part of the GOP's so-called ''health security agenda'' (H.R. 4281, vote No. 174).

(4) Teacher Training. The House passed the ''Ready to Teach'' Act on July 9, 2003 (H.R. 2211, vote No. 340) and then passed it again under a new bill number on June 2, 2004 under suspension of the rules (H.R. 4409, voice voted, then inserted by H. Res. 656 into H.R. 444).

(5) Graduate School Grants. The House passed a bill to reauthorize programs that award grants to U.S. graduate students under suspension of the rules on October 21, 2003 (H.R. 3076, voice voted) and then passed it again under a new bill number on June 2, 2004 under suspension of the rules (H.R. 4409, voice voted, then inserted by H. Res. 656 into H.R. 444).

Mr. Speaker, there are no exciting new characters, no interesting new plot lines, just the same old story: special interests meet Congress; Congress rolls over; special interests destroy environment and Congress weakens the Nation's energy policy. End of story.

In fact, all that can be said of H.R. 4503 is that with each passing day, we discover something new about the original energy conference report that further confirms how bad that bill was and still is. Since the House passed the energy conference report in November last year, new details about the 1,100-page bill have come to light.

For example, the bill lifts tariffs on Chinese-made ceiling fans, a provision which is widely acknowledged to benefit Home Depot of Atlanta, Georgia. It includes a $500,000 grant for the Georgia carpet industry to research the burning of industrial carpet waste in the manufacture of cement, and it contains a tax-exempt ''green bond'' program that will finance the construction of a mall in Shreveport, Louisiana, which will house a Hooter's restaurant.

This bill is so laden with special interest money that no less than Grover Norquist and the Americans for Tax Reform and the National Taxpayers Union have said that the energy conference report is ''chockful of subsidies, pork barrel projects, and unnecessary spending that have little, if anything, to do with our Nation's energy needs.''

An in-depth analysis of the energy conference report conducted by the well-respected Energy Information Administration of the Department of Energy concluded the following: that the energy conference report's energy provisions will not reduce the overall amount of energy consumption in the United States over the next 15 years and furthermore, its transportation fuel provisions will cause the average gas prices in the year 2015 to be 3 to 8 cents higher than they would be under current law.

Mr. Speaker, I imagine that is a surprise ending that not even the Republicans who single-handedly wrote the energy conference report would enjoy. Imagine, after handing out $23 billion in tax breaks and subsidies to the oil and gas industry, we are actually going to pay more for gas at the pump.

I can tell Members my constituents in Massachusetts will be demanding their money back after seeing that surprise ending. In Massachusetts, the average cost of gasoline this month will be $2.10 per gallon. This is 58 cents higher than a year ago at the same time. At that rate, motorists in the Worcester, Massachusetts, area will pay $29 million more for gasoline this summer driving season than they did last summer. That is $200 more for the average family between Memorial Day and Labor Day.

Meanwhile, the Republican leadership's response to this very real national crisis is to bring us a repeat of the same failed energy bill which has been stalled in negotiations with the other body for nearly 7 months, a so-called energy security act that will not secure our future energy supply by enhancing our independence or reducing our demand, a bill that does not include a renewable energy portfolio standard, but does include a $2 billion bail-out and liability protection for producers of MTBE.

Mr. Speaker, since the Republican leadership of this House seems bent on bringing the same bills to the floor, I am compelled to respectfully repeat the same suggestion that I have offered them before: instead of shamelessly using the legislative calendar here to send a message to the other body, perhaps the House leadership could walk across the Capitol and simply confer with their fellow Republican leaders. It is not that far, and I will remind them that the House is under Republican control and so is the other body. They should go over and talk to each other and try to work these things out.

If that is too much trouble, maybe at a minimum the House leadership could make in order thoughtful, responsible amendments offered by their own Members, such as the climate change amendment offer by the gentleman from Maryland (Mr. GILCHREST) and the gentleman from Massachusetts (Mr. OLVER) in the Committee on Rules last evening, an amendment that would have established a voluntary, and I repeat voluntary, greenhouse gas registry and database. This would be something different, something worth watching for.

Mr. Speaker, the truly amazing thing about the House leadership is that when they are not bringing bills to the floor that we have already voted on, they are bringing bills to the floor that have never had a hearing.

This rule also provides for the consideration of H.R. 4517, the U.S. Refinery Revitalization Act. This bill was filed on June 4 and referred to the House Committee on Energy and Commerce. On June 7, the bill was promptly offered to the Subcommittee on Energy and Air Quality. Exactly one week later, it was before the Rules Committee, and today it is on the floor. No committee hearings or markup.

To his credit, the chairman of the Committee on Energy and Commerce conceded this point in the Committee on Rules last evening, going so far as to say that the ranking member's request for a hearing on the bill was reasonable.

I do not doubt that the lack of domestic refinery capacity has been discussed before in the Committee on Energy and Commerce, and I will not dispute the statistics regarding the number of refineries currently operating in the United States that are cited in the findings of this bill. However, it seems to me that there is considerable and legitimate debate over the causes for this shrinking capacity. In fact, some fuel economists argue that there are fewer refineries today because they are run more efficiently than in the past.

Now, in light of this, I think it is reasonable to allow the committees of jurisdiction to examine these issues before we rush bills to the floor that make sweeping changes to the permitting process for these facilities.

H.R. 4517 gives extraordinarily broad powers to the Secretary of Energy to grant approval for building new refineries and reactivating idle refineries. It allows the DOE to force other State and Federal agencies to make decisions within 6 months and allows the DOE to override the objections of a Governor of a State or the EPA on such projects. The bill also allows the DOE to ignore the provisions of the Clean Air Act that limit the emissions of the toxic air pollutants that refineries produce.

Mr. Speaker, H.R. 4517 is intended to streamline and expedite the permitting process for refineries, but the rule under which the bill is being considered is intended to deliberately circumvent and subvert the legislative process. That is not only unacceptable; it is appalling, and it should concern every single Member of this body regardless of his or her party affiliation.

Accordingly, I urge my colleagues to vote ''no'' on this rule and to put an end to this charade of bringing bills to the floor that we have either voted on before, or alternately have never been before a committee.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think probably the right thing to do is just review back to how we got to this point. Let us remind ourselves we have not had an energy policy in this country for several decades, and we need to have an energy policy. This House has passed three energy bills, and the other body has not acted on those three energy bills.

The last energy bill, however, did get to a conference where we worked out the disagreements between both of the bodies, and the ensuing conference report was then passed by this body and then went to the other body and was subject to a filibuster which, of course, is in their rules. In order to break that filibuster, it takes 60 votes. They got 58 votes. The presumption would be if they had a chance to vote up or down on the bill that perhaps they would have enough votes to pass the energy bill.

But I think it is even more instructive to go back and reflect on how we got to this point of the conference report. In the House alone in the last 3 years, we had 80 public hearings on energy policy in this country. We had 11 markups in the various committees on this energy bill. They considered 224 amendments, and we had 5 days of floor debate with 39 amendments in this body.

In the other body, there were 37 hearings, there were eight markups, and they had weeks of debate on the floor. When they finally got to conference, which of course is the final product which will develop the bill which will ultimately be the policy of this country, there were nine public hearings, there were 24 hours of debate. On a bipartisan basis, there were 10 staff meetings working out some of the details, and to say that this was not made public totally misses the point because there were 14 titles and 1,163 pages of text posted on the Web.

It is not surprising then with this background that the conference report dealing with our energy policy would pass on a bipartisan basis: 246 in this body to 180 against.

So I would just remind the gentleman from Massachusetts (Mr. MCGOVERN) that there was a great deal of work that went into this. We are simply bringing the bill back again with the idea to pass an energy bill that we need, and we need it very badly. It has been reflected, of course, in the higher prices of gasoline, which, I might add, are starting to reduce because of market pressures; and I am in favor of that.

With that, Mr. Speaker, I think to set the record straight there has been a great deal of work that has gone into the original bill and into this bill. I urge my colleagues to vote for the rule and the underlying bills.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The Chair would remind Members to refrain from characterizations of the actions of the Senate, such as use of the term ''filibuster.''

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

Mr. Speaker, let me just say to the gentleman from Washington (Mr. HASTINGS) that this process is lousy. H.R. 4503, the bill the gentleman was referring to, Members on the Democratic side were not even allowed to participate in the conference where this bill was negotiated. The process here is awful, and it really is indefensible.

I also remind the gentleman from Washington (Mr. HASTINGS) that this rule is not only for the consideration of H.R. 4503, it is also for the consideration of H.R. 4517, the U.S. Refinery and Revitalization Act. There were no hearings at all in the committee of jurisdiction on that bill. There was no markup by the Members of the committee of jurisdiction on that bill.

I think we need to say something in defense of the Members, both Democrat and Republican, who are on that committee of jurisdiction that they should have an opportunity to be present at hearings and ask questions and to be able to make suggestions to make that bill better. So this process is indefensible. It is indefensible not only by the fact that people are getting locked out and bills are being rushed to the floor without hearings and without markups, but also this is bad policy. I think almost everybody knows it.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. ESHOO).

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

Mr. Speaker, we are debating an energy bill which does plenty for energy companies, but does precious little for energy consumers.

The elephant in the room is still the failure to address the 2000–2001 western energy crisis. Two weeks ago, CBS News broadcast tapes of conversations in which Enron employees bragged about stealing money from California during the energy crisis. They talked about shutting off power plants, they bragged about all of the money they stole from ''those poor grandmothers in California.'' Some of the language was so profane it could not be broadcast. The language was shocking and the facts in the transcripts chilling. They are part of a litany of widespread market manipulation.

Today, we have the smoking gun memos in which Enron admitted how it gamed the market. We have today the transcripts of employees of Reliant Energy describing how they gamed the market. We have today 3,000 pages produced by the State of California. We have today the Department of Justice's indictments and plea agreements with many energy traders and producers. We have today even the language that FERC found ''significant market manipulation.''

□ 1145

What we do not have are refunds for the consumers who were gouged to the tune of $8.9 billion and $1.1 billion in the Pacific Northwest.

The law requires that this money be refunded, but for 4 years consumers are still waiting. For 4 years this Congress has failed to investigate, and the administration has continued to perpetrate the myth first stated by Vice President CHENEY that ''The basic problem in California was caused by Californians.''

Have you listened to the tapes, Mr. Vice President? For 4 years, the administration has lectured consumers about supply and demand and free markets. Now the Enron tapes make it clear that consumers in the West were robbed.

I want to repeat that. Consumers in the West were robbed. Once again, in this bill the House is turning its back on these consumers by doing nothing to hold industry accountable, but then again we are living in an era of total unaccountability. It is a culture of unaccountability.

I urge my colleagues to oppose this bill. It is deeply flawed, and it does nothing for consumers in this country.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 4 minutes to the distinguished gentleman from Florida (Mr. LINDER) from the Committee on Rules.

Mr. LINDER. Mr. Speaker, H. Res. 671 provides for the consideration of H.R. 4503 under a closed rule as well as providing for the consideration of H.R. 4717 under a closed rule. I urge my colleagues in the House to join me in supporting this rule so that the full House can proceed to consider the merits of the underlying legislative measures.

In particular, I want to urge the House to approve H.R. 4503, which is a comprehensive energy plan that focuses on developing and implementing new energy technologies, as well as increasing current energy reserves through cutting edge methods and technologies. It closely follows the text of H.R. 6, the final version which the House passed last year but which has fallen victim to a filibuster by the minority of the other body's membership.

In recent months gas prices have increased from an average of $1.34 to over $2 per gallon. Furthermore, the average family is paying 25 percent more for energy than they were in 1998.

We must take action, but more importantly Congress needs to take the right kind of action. Increasing the supply of energy will help bring prices down, while imposing governmental mandates and requirements will simply drive energy prices higher.

The ability of our economy to continue growing and creating jobs, as it has for the last several quarters, depends on affordable energy prices. H.R. 4503, H.R. 4517, and 2 other energy-related measures that the House will consider later today are explicitly designed to increase energy supplies, bring prices down and make the United States more energy independent.

Energy drives the American economy, and this legislation would allow us to reiterate our commitment to the economy and send the message to the American people that our consumers and businesses need a new far-sighted, free, market-oriented energy policy.

Mr. Speaker, I urge my colleagues to join me in supporting this rule so we

may proceed to debate the underlying legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The Chair would admonish Members to avoid improper references to the Senate.

Mr. MCGOVERN. Mr. Speaker, I yield 3½ minutes to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, this rule is not just ineffective. It is not just inefficient. It is not just unfair. It perpetuates one of the largest frauds on consumers in American history. It aids and abets the rip-off by Enron of over $1 billion of American consumers of electricity in the West Coast of the United States in the last 4 years.

This rule does nothing about that. This rule allows Enron to keep their billion dollars they took away from our people, and this is clear. We have heard the tapes. We have heard the Enron traders saying let us jam a million dollars here to the grandmothers of California. Let us rip off the Washington ratepayers for $500,000. Let us stick Snohomish County for $152 million. Let us let California burn, baby, burn. And your rule does nothing about that. This rule is in bed with Enron. It aids and abets Enron. It is written for and by Enron, and it should be rejected.

Now, we have offered an amendment that will allow ratepayers relief, give ratepayers in Snohomish County that $122 million back, give ratepayers in California over hundreds of millions of dollars in relief back, and the Republican Party said, no, we are on the side of Enron.

Now, why did they do that? Well, this administration has not lifted a finger to help the ratepayers of the West Coast, not a finger. They have got all the efficiency of the Keystone cops and the aggressiveness of Barney Fife when it comes to enforcing the laws of this country.

In fact, when we met with the Vice President during the height of the energy crisis in 2000, we explained to the Vice President that Enron had turned off a third of the generating capacity in the West Coast and driven the prices sky high. And you know what he did? He looked at us, Members of Congress, and he said, ''You know what your problem is? You just do not understand economics.''

Well, we do understand economics. We just do not understand Enronomics. We do not understand why the majority party will not allow us to do anything to get relief back from the customers who are gouged by Enron. Why will not they allow this Chamber even the right to vote on the measure to recover some sense of justice? Why do they lay down with Enron? Why do they get in bed with Ken Lay? Why are you motivated to do that? We cannot understand it.

What I know is the people of my district deserve relief. They deserve a refund. The Snohomish County ratepayers deserve that $122 million back. So I want to ask my friend, the gentleman from Washington (Mr. HASTINGS), a friendly question, if I can. Today the gentleman is denying us the opportunity to get relief for ratepayers of the State of Washington and Enron.

When will the Republican Party bring to the floor of this House a measure to allow us to get refunds from Enron of the millions of dollars they stole from Washington and Oregon and California?

Mr. HASTINGS of Washington. Mr. Speaker, will the gentleman yield?

Mr. INSLEE. I yield to the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Speaker, I tell my friend from Washington that I am outraged as he is and other speakers have been by the revelation of the traders at Enron. No question about that. It is in black and white.

Mr. INSLEE. Reclaiming my time, if the gentleman will just kindly answer my gentlemanly question. When will you bring a bill to the House to allow a refund by Enron? Just give me an answer.

The SPEAKER pro tempore. The time of the gentleman has expired.

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

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to this combined rule. This rule governs debate on H.R. 4503, an energy policy bill, and on H.R. 4517, a refinery revitalization bill. Everyone is well aware that H.R. 4503 is identical to the conference version of H.R. 6, which the House already adopted in November and is pending before the Senate. So that part of this exercise is a complete waste of time.

With that said, in my view H.R. 4503 will do little if anything to achieve energy independence or enhance national security. I had and still do have extensive environmental concerns with that bill. I voted against that bill last year and I will vote against this rule and that bill again today. But I want to take this time to highlight one of the most glaring oversights of H.R. 4503, its failure to address the issue of climate change.

Last night, I brought a bipartisan amendment to the Committee on Rules with the gentlemen from the First and Eighth Districts of Maryland (Mr. GILCHREST) and (Mr. VAN HOLLEN). Our amendment would have done 2 things. First it would have required the development of a national climate change strategy with the basic goal to stabilize greenhouse gas concentrations in our atmosphere. Second, it would have established a voluntary greenhouse gas reductions registry and information system to provide data to be used by public and private policymakers to develop effective greenhouse gas stabilization and reduction strategies. If, after 5 years, less than 60 percent of emissions were being reported to the registry, emissions reporting by large greenhouse gas producers would become mandatory.

Mr. Speaker, the facts are simple. Greenhouse gases are accumulating in the Earth's atmosphere. These accumulations are substantially caused by human activities. Temperatures are rising at the Earth's surface. All of these statements have been confirmed by our own National Academy of Sciences and by the work of thousands of international scientists and American scientists together through the Intergovernmental Panel on Climate Change. Impacts are fully observable. The time to act is now.

The amendment was really very moderate. This language was passed by the Senate by voice vote and it was included in the Senate-passed energy bill of 2002. It is a modest start, but at least it is a start. Not only was this amendment rejected, all amendments were rejected by the Committee on Rules. So this is a sham exercise and a sham debate.

I urge a no vote on the rule and a no vote on H.R. 4503 when it comes forward.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Committee on Energy and Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. I thank the gentleman from Washington for yielding me this time.

Mr. Speaker, I rise in support of the rule before us. There are several bills that we are going to bring up today under this rule. The first has been renumbered, but it is the comprehensive energy conference report that this body passed last November by a vote of 246–180 on a bipartisan basis. If the other body had been willing to bring that up, I feel very comfortable that it would have passed and the President would have signed it and it would be law by now. That particular bill reforms our electricity grid, it provides much needed R&D dollars for clean coal technology, provides some incentives for oil and gas development in this country, and has several provisions for renewable energy, including the President's hydrogen fuel initiative. That is a bill that has already passed this body once and hopefully if we pass it again today, the other body might be willing to bring it up and at least let there be a vote.

The second bill is the Refinery Revitalization Act. This is a piece of legislation that is needed because the number of refineries in the United States has fallen by 53 percent in the last 20 years. We are now having to import refined products. Somewhere between 5

and 10 percent of our refined products are being imported and are not being refined in the United States. This bill is in an area that has 20 percent employment higher than the national average, would have an expedited procedure coordinated by the Department of Energy, would not waive any existing environmental restrictions but would set up a coordinated effort. If you wanted to refurbish an old, shutdown refinery or modernize an existing refinery or even build a new refinery in certain brownfield areas, you would have an expedited method of doing so.

This would maintain jobs in the United States and hopefully create new jobs in the United States and also make us less dependent on imported refined products which is a growing problem for this country.

I would ask for a yes vote on both of these rules and I would also ask for a yes vote on the underlying legislation.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, rather than have a thoughtful discussion about ways to reduce American dependency on foreign oil, this body is again recycling bad legislation, in this case a series of corporate subsidies and environmental rollbacks that indemnify companies that would poison our water, encourage the polluting of our air, and waste taxpayer dollars.

Two provisions would have the gravest of impacts upon my State. The first permits a controversial Long Island Sound energy cable, the Cross Sound Cable, to be reactivated despite having been turned off by the Secretary of Energy earlier this year. The cable is in violation of State and Federal environmental permits. The bill disregards pending litigation by the Connecticut Attorney General and stifles the regulatory authority of Connecticut and the Army Corps of Engineers, who share jurisdiction over the installation of such transmission cables.

□ 1200

This bill would also sound a death knell for States' abilities to regulate the siting of natural gas pipelines by eliminating the ability of State environmental departments to prevent the damaging environmental effects of pipeline siting. It would grant FERC, the Federal Energy Regulatory Commission, the sole authority to make these decisions. Remember, FERC is charged with protecting consumers; but as the people in California and the Pacific Northwest know very well, they abdicated that responsibility in support of the industry. They gave the industry every break and not one for the consumer.

If we grant FERC this authority, it paves the way for the construction of Islander East, the gas pipeline, across the Long Island Sound, stretching from Branford, Connecticut, to Shoreham, New York. The results will be that Islander East, that pipeline, would be installed over and above the objections of the Army Corps of Engineers and the Connecticut Department of Environmental Protection.

This is a slippery slope, Mr. Speaker, I will tell the Members, because this will run roughshod over State authority. These provisions disregard the needs of Connecticut's economy, its environment, and the voices of millions of Connecticut citizens who will be directly affected by these provisions. By not even allowing for the amendments to address these concerns, the leadership insisted once again that it is they and not the Connecticut citizens, who are elected officials, who know what is best for our State.

The Republican leadership does not know what is best for the State of Connecticut. If we want to reduce dependence on foreign oil, if we are serious about saving taxpayers' money, we should have a real debate in this body, if we are serious about what constitutes good energy policy instead of more corporate giveaways like this in this bill.

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

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, we need a comprehensive national energy bill to reduce our dangerous dependence on foreign oil by investing in cleaner, safer ways to power America. The bill attached to this rule absolutely fails to reduce our growing demand for oil and will only increase our vulnerability by making us more dependent on foreign oil in the future.

We need an energy policy that restores electric system reliability; keeps consumers' energy bills affordable; promotes energy conservation; provides more power from clean, renewable sources; and tackles global warming. Again, this bill fails miserably on every count.

This energy bill is the most anti-consumer, anti-environment, pro-polluter, pro-corporate welfare legislation that I have seen in the 12 years that I have served in this House. It could cost consumers as much as $136 billion in subsidies to polluting industries and corporate handouts. The bill rewards energy companies with billions in subsidies while sticking taxpayers with the bill and the pollution and the bill for that pollution, which right now comes to about $167 billion in monetized health care costs cross the country.

It eliminates consumer protections and subsidizes the construction of new nuclear power plants that most people do not want. The bill fails to take any step whatsoever to require that the Nation reduce its dependence on oil or improve the fuel economy of our cars, trucks, and SUVs. The conference even removed the Senate-passed provision to reduce U.S. energy demands by 1 billion barrels a daily.

It nullifies lawsuits by cities, States, and others filed on or after September 5, 2003, seeking compensation for contamination of groundwater by MTBE, which is a very heavily suspected carcinogen. This forces State and local communities to pay the cost that was originated by the polluters. And then the bill provides 2 billion in taxpayer dollars for these MTBE manufacturing companies to transition themselves into a new line of work, more corporate welfare.

It violates the ''polluter pays'' principle by forcing taxpayers, rather than polluters, to pay for the cleanup of contamination from leaking underground storage tanks. Taxpayers, rather than polluters, will pay another $2 billion to compensate the polluters rather than having them to pay the bill. The bill does nothing to address the serious damage caused by global warming. It dramatically increases air pollution and global warming with huge new incentives for burning fossil fuels. It allows more smog pollution for longer than the current Clean Air Act currently authorizes. This means more kids and others breathing dirty air for longer periods of time, more cases of asthma, more public health problems.

It undermines the Clean Water Act. It threatens drinking water supplies, public health, and the environment by exempting hydraulic fracturing, a drilling technique which injects chemicals into the groundwater.

This is an absolutely atrocious presentation. The rule should be defeated, and the bill should be defeated.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I am certain that the people watching the floor today are feeling like they are having deja vu all over again; and, yes, they are right. We did do this before; and, no, there is nothing new here.

What we should be talking about is renewable energy. We should be talking about decreasing our dependence on foreign oil. We should be talking about ensuring that catastrophes like Enron's cheating the west coast out of billions of dollars never happen again. We should be talking about improving our electrical transmission lines so that the blackouts we experienced last summer do not happen again this summer.

We should be talking about how to make our buildings more energy efficient, and we should be talking about the high price of gas and how to bring relief to the American people.

Instead, we are talking about the same flawed energy bill that has already passed the House. That bill was not good the first time, and it is not good this time. This is the exact same energy bill that allows companies to pollute our air and contaminate our water while giving huge tax incentives to big oil and gas companies, the same companies that are today gouging the American people with high gas prices at the pumps.

Mr. Speaker, enough is enough. I urge my colleagues to join me in opposing this rule and these bills and to get on with the work of a real energy policy, one that will bring us independence from foreign fuels; one that will protect our environment and ensure that we are no longer depending on fossil fuels.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I rise again to support comprehensive energy legislation.

I think it is ironic that we are having to do this for the third time when gas prices are at historic high levels in our country; and I do not know what message it will give to two thirds of the Senate to say we need a national energy, one that applies for more energy, domestic sources of energy.

I know we need more energy, whether it be from crude oil for our gasoline in our cars. We need lower natural gas prices. We have some of the highest in the world. And yet we still have people in this country who do not want to produce in our own Nation.

The nation of Cuba can drill 60 miles off Key West, and yet the Governor of Florida does not want American companies drilling with zero emission platforms 100 miles away. Obviously ANWR is an issue. We need to drill domestically and produce it, and that way we will not become dependent on foreign oil.

I support passing this bill, again, Mr. Speaker; and I would hope that the bipartisan majority of the House would support it also.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind Members it is inappropriate to urge action on the part of the Senate.

Mr. HASTINGS of Washington. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

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

Mr. Speaker, this House is becoming a place where the rules are constantly being broken and a place where the process is constantly being ignored. No hearings, no markups, no amendments made in order. How cynical on an issue so important.

We need an energy policy in this country, Mr. Speaker. But this is not it. What we are being presented with today really is a giveaway to big campaign contributors. This bill does nothing to lower gas prices. This bill does nothing to have us become less dependent on foreign oil. It does nothing to support, in a meaningful way, renewable energy sources.

This bill is having a tough time for all the right reasons, because it is a bad bill. And rather than trying to fix it and rather than trying to negotiate with the other body, here we are again going through the same old routine.

Mr. Speaker, it is not just people like me who have problems with this bill. Let me read just a section from a letter signed by the president of Taxpayers for Common Sense Action, the president of the Council for Citizens against Government Waste, the President of the National Taxpayers Union, the president of the Americans for Tax Reform, and the president of the American Conservative Union. They recently sent all of us a letter. Let me just quote from one paragraph.

They say: ''There is too much waste to describe in one letter,'' contained in this bill. ''Suffice it to say, the energy bill touches everyone and everything, from giving billions to ethanol producers to 'green' bonds for shopping malls, from billions to the nuclear and coal industries to billions in loan guarantees for an Alaska natural gas pipeline. There are also millions for various pet projects at colleges across this country. The oil and gas industry alone reaps more than a quarter of the bill's funding.''

Mr. Speaker, I could go on and on, and I will insert this letter in the RECORD.

Mr. Speaker, we could do so much better, and I would urge my colleagues on both sides of the aisle to reject this rule, to force the committees of jurisdiction to do their job, to go back and meet again and to come up with an energy bill that we all can be proud of.

DECEMBER 1, 2003.

POP THE BALLOONING ENERGY BILL

DEAR SENATOR: On behalf of our members, the undersigned groups urge you to oppose H.R. 6, the so-called ''Energy Policy Act of 2003.'' We are concerned that at every opportunity the energy bill has been larded up with more and more waste and inappropriate taxpayer-funded subsidies. Between initial passage on the floor of the House of Representatives and the bill's emergence from the sequestered conference committee, the bill's price tag ballooned from $46 billion to over $72 billion in authorized spending. That is a 50% increase in authorized spending in just a few months. Our organizations will strongly consider including votes on this bill in our end-of-the-year scorecards.

H.R. 6 is chock full of subsidies, pork barrel projects, and unnecessary spending that have little, if anything, to do with our nation's energy needs. Even supporters of the legislation have admitted that it is not real comprehensive energy policy, but merely a goodie bag of various projects and policies. The Wall Street Journal called this bill ''one of the great logrolling exercises in recent Congressional history'' and that to get the bill through, leadership has ''greased more wheels than a Nascar pit crew.'' The Washington Post also editorialized against the bill, calling on lawmakers to ''make sure the bill doesn't become law.'' We echo that sentiment.

There is too much waste to describe in one letter. Suffice it to say, the energy bill touches everyone and everything, from giving billions to ethanol producers to ''green'' bonds for shopping malls, from billions to the nuclear and coal industries to billion in loan guarantees for an Alaska natural gas pipeline. There are also millions for various pet projects at colleges across the country. The oil and gas industry alone reaps more than a quarter of the bill's funding.

Again, we urge you to oppose H.R. 6 and we will strongly consider including votes on this wasteful legislation in our organizations' end-of-year scorecards. We would be happy to discuss these issues with you further. Please contact Aileen Roder at Taxpayers for Common Sense Action at (202) 546–8500 ×130 or aileen@taxpayer.net with questions or comments.

Sincerely,

JILL LANCELOT,
President, Taxpayers for Common Sense Action.

TOM SCHATZ,
President, Council for Citizens against Government Waste.

JOHN BERTHOUD,
President, National Taxpayers Union.

GROVER G. NORQUIST,
President, Americans for Tax Reform.

RICHARD LESSNER, Ph.D,
Executive Director, American Conservative Union.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to comment on the revelations that came to light last week regarding the tapes on the Enron traders. As I started to say earlier, that is pretty black and white, and it is bad. There is absolutely no question about that. And FERC is responsible for that. FERC has been working on this for some time. They have been. I think, frankly, they have been moving rather slowly. But now that this new information is out, I think FERC has to move much more quickly on this issue because there is an awful lot at stake for the rate payers in the western part of my State and certainly in my State and, indeed, the whole northwest. So I share concerns with my colleagues on the west coast that FERC needs to act immediately, and I hope that they would.

I might also add that since these revelations came to light last week about the trading, the Department of Justice has now weighed in, as they properly should. So we will get to the bottom about this. I do not think there is any question about that. But there is no way that anybody in this body can condone what we heard that was made public with those tapes.

So with that, getting back to the business at hand, I urge my colleagues to support the rule and the underlying bills.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on ordering the previous question on H. Res. 671 will be followed by 5-minute votes, as ordered, on adopting H. Res. 671; ordering the previous question on H. Res. 672; and adopting H. Res. 672.

The vote was taken by electronic device, and there were—yeas 218, nays 197, not voting 18, as follows:

[Roll No. 236]

YEAS—218

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Doolittle
Dreier
Duncan
Dunn
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—18

Bishop (UT)
Brown-Waite, Ginny
Burton (IN)
Cardoza
Carson (IN)
Carson (OK)
Collins
DeMint
Deutsch
Diaz-Balart, M.
Ehlers
John
Lampson
Millender-McDonald
Olver
Pascrell
Terry
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1237

Messrs. POMEROY, DAVIS of Illinois, BRADY of Pennsylvania, BACA, DAVIS of Tennessee, ACKERMAN, GORDON, WEINER, SHAYS, and RANGEL, and Mrs. NAPOLITANO and Ms. KAPTUR changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 225, noes 193, not voting 15, as follows:

[Roll No. 237]

AYES—225

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—193

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)

Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gordon
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—15

Brown-Waite, Ginny
Burton (IN)
Carson (IN)
Carson (OK)
Collins
DeMint
Deutsch
Ehlers
John
Lampson
Millender-McDonald
Pascrell
Turner (TX)
Waters
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1246

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4513, RENEWABLE ENERGY PROJECT SITING IMPROVEMENT ACT OF 2004, AND H.R. 4529, ARCTIC COASTAL PLAIN SURFACE MINING IMPROVEMENT ACT OF 2004

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on House Resolution 672 on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 221, nays 198, not voting 14, as follows:

[Roll No. 238]

YEAS—221

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—14

Ackerman
Brown-Waite, Ginny
Burton (IN)
Carson (IN)
Carson (OK)
Collins
DeMint
Deutsch
Ehlers
Lampson
Millender-McDonald
Pascrell
Smith (TX)
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON)(during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1256

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 226, noes 193, not voting 14, as follows:

[Roll No. 239]

AYES—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
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Goode
Goodlatte
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Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
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Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
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Ryan (WI)
Ryun (KS)
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Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
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Sherwood
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Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
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Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
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Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—193

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gordon
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—14

Brown-Waite, Ginny
Burton (IN)
Carson (IN)
Carson (OK)
Collins
DeMint
Deutsch
Ehlers
Hunter
Lampson
Millender-McDonald
Pascrell
Pickering
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1304

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I was regrettably delayed in my return to Washington, DC and therefore unable to be on the House Floor for rollcall votes 236, 237, 238 and 239. Had I been here I would have voted "aye" for rollcall vote 236, "aye" for rollcall vote 237, "aye" for rollcall vote 238, and "aye" for rollcall vote 239.

REPORT ON H.R. 4567, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005

Mr. ROGERS of Kentucky, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108–541) on the bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

REPORT ON H.R. 4568, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

Mr. TAYLOR of North Carolina, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108–542) on the bill (H.R. 4568) making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

RENEWABLE ENERGY PROJECT SITING IMPROVEMENT ACT OF 2004

Mr. POMBO. Mr. Speaker, pursuant to House Resolution 672, I call up the bill (H.R. 4513) to provide that in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 with respect to any action authorizing a renewable energy project, no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 672, the bill is considered read for amendment.

The text of H.R. 4513 is as follows:

H.R. 4513

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

SECTION 1. ENVIRONMENTAL REVIEW FOR RENEWABLE ENERGY PROJECTS.

(a) COMPLIANCE WITH NEPA FOR RENEWABLE ENERGY PROJECTS.—Notwithstanding any other law, in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) with respect to any action authorizing a renewable energy project under the jurisdiction of a Federal agency—

(1) no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative; and

(2) no Federal agency is required to analyze the environmental effects of alternative locations or actions other than those submitted by the project proponent.

(b) CONSIDERATION OF ALTERNATIVES.—In any environmental assessment or environmental impact statement referred to in subsection (a), the Federal agency shall only identify and analyze the environmental effects and potential mitigation measures of—

(1) the proposed action; and

(2) the no action alternative.

(c) PUBLIC COMMENT.—In preparing an environmental assessment or environmental impact statement referred to in subsection (a), the Federal agency shall only consider public comments that specifically address the preferred action and that are filed within 20 days after publication of a draft environmental assessment or draft environmental impact statement. Notwithstanding any other law, compliance with this subsection is deemed to satisfy section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines with respect to proposed renewable energy projects.

(d) DEFINITION.—For purposes of this section, the term ''renewable energy project''—

(1) means any proposal to utilize an energy source other than nuclear power or the combustion of coal, oil or natural gas; and

(2) includes but is not be limited to the use of wind, solar, geothermal, or tidal forces to generate energy.

The SPEAKER pro tempore. After one hour of debate on the bill, it shall be in order to consider the amendment printed in part A of House Report 108–540 if offered by the gentleman from California (Mr. POMBO), or his designee, which shall be considered read, and shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent.

The gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) each will control 30 minutes of debate on the bill

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, H.R. 4513 expedites the development of renewable energy projects such as wind, tidal, solar, and geothermal by streamlining, but not weakening, the environmental review process.

The bill instructs the responsible agency to review and take public comment only on the most feasible project. Simplifying the process is necessary to incentivize participation in renewable energy projects which are economically marginal to start.

The bottom line is that H.R. 4513 encourages developers to commit capital to renewable energy projects and puts the government in position to put that capital to work sooner.

NEPA requires review of reasonable alternatives, and H.R. 4513 takes the intelligent step of defining ''reasonable'' alternatives for renewable energy projects rather than having it defined through litigation, which those opposed to this bill may ultimately want to do.

Since renewable energy projects are largely place-based, which means that they can only make use of the site where the resources are found, the only reasonable alternatives are, one, the proposed project, and, two, no action.

This bill does nothing to change the requirement that a Federal agency follow the NEPA environmental review process, including mitigation. At the end of the NEPA process, if the agency is not satisfied that the project meets environmental requirements, then the agency official can deny the permit.

Despite what agenda-driven extremist groups might suggest, public comment is not limited. Anyone can make comments on the project. It does require that the comments be focused on the preferred action, which is consistent with the NEPA regulations request that comments be as specific as possible.

H.R. 4513 has no effect on any other environmental law or action. For example, while H.R. 4513 addresses alternatives during NEPA review of hydroelectric projects, it does nothing to affect any of the environmental safeguards otherwise found in the relicensing process.

The bill actually improves an agency's environmental review by focusing on the most viable project rather than having it distracted by misdirected and ineffective alternatives.

Renewable energy projects create jobs. Wind power creates 2.77 jobs for every megawatt produced. Solar panels create 7.24 jobs per megawatt, and geothermal energy projects create 5.6 jobs per megawatt. These projects use large amounts of highly skilled labor and can be an engine for local construction and manufacturing jobs that pay family wages.

At the end of the day, my colleagues either support renewable energy production or they do not. This bill is necessary because of the costly litigation and bureaucratic roadblocks created by the same groups that oppose this bill. This bill provides the framework for power supplies that are affordable, reliable, secure and sustainable while at the same time fully protecting the quality of our environment.

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

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

Mr. Speaker, I rise in opposition to H.R. 4513. It is understandable that there is some confusion among Members about a bill listed on the schedule as the Renewable Energy Siting Improvement Act. After all, H.R. 4513 was recently introduced on June 4 and has not had a single day of hearings or markup in the Committee on Resources. Surely such a noble sounding bill must have a reasonable approach to address real problems.

Sadly, that is not the case with H.R. 4513. If there were a truth-in-labeling requirement under the House rules, this bill should more accurately be called an Act to gut the National Environmental Policy Act of 1969.

Not only is it unwise to fundamentally rewrite NEPA, one of our most important environmental laws, it is unnecessary. It is unwise because this bill would turn NEPA on its head by allowing Federal agencies to avoid considering alternatives to any renewable energy project. Under H.R. 4513, it is up or down. Take it or leave it. It is my way or the highway. The Federal agency must put blinders on, even if a proposed energy project is next to a school or a park and there are more desirable alternative locations.

It is also unwise because the public is given only 20 days to comment on the up or down option being promoted by the Federal agency. As a practical matter, this means that States, local governments and ordinary citizens will be effectively out of the process of Federal agency decision-making on energy project siting.

It is unnecessary because there is no compelling evidence that complying with NEPA has thwarted responsible development of renewable energy in the United States.

Of course, some renewable energy projects are controversial, including wind farms on the mountaintops in my home State of West Virginia, but they are not going to become less controversial if we shut the door on the local citizens as would the pending measure.

In essence, this bill would make Federal agencies more powerful but less well-informed and less accountable to the States and the public than is currently the case under NEPA. In days gone by, such radical legislation would have been derided as big government by the conservatives in this body, but today I fear that H.R. 4513 is only part of a broader assault on NEPA and the public process.

So, to my colleagues from coastal areas, beware. I say beware. Today, it is wind energy. Tomorrow, it could very well be offshore oil and gas leasing.

Voting for this bill today sets a precedent. Pending before us is a feel good bill that does nothing but damage public support for responsible development of renewable energy. Let us not toss NEPA to the wind. Reject H.R. 4513.

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

Mr. POMBO. Mr. Speaker, I yield 4 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

(Mrs. CUBIN asked and was given permission to revise and extend her remarks.)

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from California for the time.

I rise in strong support of H.R. 4513, the Renewable Energy Project Siting Improvement Act of 2004. This bill will greatly aid in our efforts to fill out our Nation's energy portfolio in a balanced way and in a complete manner.

We hear so often that we do not have enough renewable energy sources contributing to America's insatiable appetite for cheap and abundant energy. Here is an opportunity to increase the role that renewables play in our energy production, helping to create a safer and smarter national energy policy.

The problem that our Nation has with providing abundant and cheap energy to manufacturing plants, to agriculture users, to schools, to office buildings and to homes is not that we do not have enough energy. We have

plenty. In my home State of Wyoming, we have several hundred years of supply of low sulfur coal, clean burning natural gas and easily attainable uranium, and the wind, well, it never stops blowing in Wyoming. So if we have plenty of energy, both fossil fuels and renewables, then what is the problem?

It is simple. There are those who will stop at nothing to stop any development of any kind of our natural resources, no matter how responsibly it is done. There are those radical environmentalists that file so many lawsuits that it makes even an ambulance-chasing attorney blush.

Through the death of a thousand cuts, these same environmentalists will drag out and attempt to halt any effort to provide energy that helps our economy grow, whether it be updating transmission lines, producing natural gas or coal with the newest of technologies or even putting up an environmentally sensitive wind farm.

□ 1315

Just last year, I introduced H.R. 793, which was included in the conference report of H.R. 4 and in H.R. 4503, which the House will consider later today. This bill would address the need for statutory authority to permit future alternative energy projects on the outer continental shelf. Such projects would include energy projects such as wind, wave and solar power production. But that bill, too, was opposed by people all across the environmental community, and it was opposed particularly in Nantucket where a wind farm was already planned and financed several miles off the coast. These are the very same people who claim to be strongly supportive of alternative forms of energy, but refuse to allow even a single windmill many miles off their coast.

This hypocrisy is simply unacceptable. The bill before us is an opportunity to support the expedited, but thorough, environmental of renewable energy projects. H.R. 4513 merely requires the Federal agency focus on the actual proposed renewable energy project rather than conjure up a whole bunch of fantasy alternative projects in the name of jumping through the procedural hurdles of NEPA. The alternative energy project, if found to be environmentally unacceptable, will still be rejected by the Federal agency involved.

It is simple. Either Members are for renewable energy or they are not. It is time to move forward. The approach on alternatives in this bill was extensively debated during the consideration of the Healthy Forest legislation, and it is not a novel approach. It is consistent with NEPA. Reducing the number of alternatives in a NEPA study is a necessary step to reduce costly legislation that prevents capital investment in renewable energy projects.

I strongly urge Members' support of H.R. 4513 and ask that those who claim to be in support of renewable energy sources put their vote where their mouth is and support a bill that actually allows renewable energy projects to get off the ground and out of the courthouses.

Mr. RAHALL. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I want to first start by thanking the gentleman from California (Mr. POMBO), chairman of the Committee on Resources, for working with me and others to clarify that the language in this bill is not intended to alter the existing law and the moratorium as far as drilling for oil and gas in the eastern Gulf of Mexico and other protected areas.

Having said that, I want to join the gentleman from West Virginia (Mr. RAHALL) in urging a negative vote on this bill. This bill has as a stated goal to speed up the permitting process with respect to alternative energy projects, and it certainly is a worthy goal. None of us should be afraid of trying to find better ways to have a system that is quicker, more efficient, and less bureaucratic. However, I think the bill fails to achieve that goal.

If this bill had gone to the committee, and if the bill fails here and in the Senate, hopefully it will come back to committee this Congress or next, I think Members could sit down and try to work through these details; but instead, we have a bill that really guts much of the NEPA, the National Environmental Protection Act. This bill would stop forcing Federal agencies to consider alternatives which might be more environmentally benign in my State, Florida, or others, in judging a particular project.

This law is intended to provide a voice like Florida to participate in a decision that balances the interest of the State against our energy needs and other Federal considerations. If the State does not have a voice in this discussion, then it is not a legitimate discussion.

I know my Governor, Jeb Bush, has said limiting the comment period from 45 days to 20 days deprives my State of the voice it needs to have in this conversation about environmental impact. We need to find a way to make sure the State can still be heard. By eliminating the alternative considerations, we have also limited the States' ability to comment on how to balance renewable energy needs with the details of how to site something, where to site it, and how to construct it.

There is a way to have a balanced, fair debate on how to make the National Environmental Protection Act a better law where State and Federal Government can work better together; but this is not the way to do it today, and I urge a negative vote on the bill.

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

Mr. Speaker, just in response to my colleagues' comments on the bill, I am not exactly sure where the gentleman from West Virginia (Mr. RAHALL) is going with his opposition. We have spent so much time on energy legislation over the past several years in the committee in trying to work this out; and one of the things I hear repeatedly from the other side of the aisle is we need to do more on renewables, we need to have more effort put into having alternative energy and renewables and environmentally friendly energy production.

This bill does that. It streamlines the process. It in no way guts NEPA. It does not change a word of any of the environmental requirements under NEPA. It does not prevent the States from commenting or change the States' ability to comment on that, or the ability for our constituents, the citizens of this country, to comment on any of the proposals that are put before us. All of that stays in place. All it does is in reducing the number of alternatives that are required of someone to come forward with is it streamlines the process.

Now, if there is something that is being built next to a school or a national park, and I love hearing that, then the agency with oversight says no. It is that simple. If somebody is that ignorant that they are going to come forward with a project next to a school or in the middle of a national park, they say no. Then they go to a different project. All we are trying to do is speed up the process.

I love listening to the other side of the aisle talk about how we need to do more on alternative energy; and when we went through all the debate on the energy bill, we talked about how we need to do more on bringing alternative energy projects to the forefront. We are trying to do that in this bill, and the other side of the aisle is still opposed to it. I am coming to the conclusion that the other side of the aisle is opposed to doing anything that produces energy. If they do not support this, and they do not support the energy bill, what are they in favor of? What do they think is a good idea to produce more energy for this country?

If they come up with some ideas, I will work with them. We did the energy bill, which was a balanced approach. We did this bill, which is to put more emphasis on nonpolluting energy sources; and they are still opposed to it. At some point they have to come forward and say we are in favor of something because our country is running out of energy. Our country is in a terrible mess on natural gas prices, on gasoline prices, on electricity prices. Everything is going up. We have shortages all over the country in different parts for different reasons; and everything that we propose to try to take care of that, they are opposed to it.

Granted, the environmental groups have a long and storied history on opposing anything, and I can take that. But as Members of Congress, we need to step forward and be leaders and say this is how we are going to take care of our energy problems into the future.

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

Mr. RAHALL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

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

Mr. Speaker, I rise in strong opposition to H.R. 4513. Like many Members, I applaud the topic of the legislation. I support wind, solar, and other clean renewable energy projects. They are a critical part of a clean energy future. But renewable energy projects could have adverse impacts on the environment and also on public health if they are not sited, designed, or operated properly. This needs to be a part of the topic. It is about a local voice in having a say in what happens.

That is why projects, whether they are clean or renewable or whatever kind of project it is, must be subject to a full environmental and public health review as required by the National Environmental Protection Act, or NEPA, a process which results in a better project.

With all due respect to the Chair of the committee, H.R. 4513 seeks to remove this requirement of having a local voice in the process. Under the bill, any Federal agency would be exempt from considering alternatives when assessing the environmental impact of a project. It would virtually eliminate input from local communities, States, and the public by allowing only a 20-day comment period and only allowing comments on the proponents' proposal.

Under current law, interested parties have 45 days to comment and analyze the environmental effects of alternative locations and actions of a project. The bill's intentionally broad definition of renewable energy leaves the door wide open to waivers for environmentally harmful projects, such as some solid waste incineration, hydroelectric projects, or LNG terminals and pipelines, not just on public lands but everywhere according to the OCS.

While I salute the fact that this bill recognizes renewable energy development and its importance, it fails to ensure that environmentally important renewable energy development occurs in a timely manner, in the right locations, subject to the terms that fully protect the public's interest, and through a process that ensures ample public input and trust.

Mr. Speaker, let us make sure that all energy projects meet environmental and public health standards. I urge a ''no'' vote on H.R. 4513.

Mr. POMBO. Mr. Speaker, I yield myself 1 minute to engage in a colloquy with the gentlewoman.

Mr. Speaker, would the gentlewoman support the bill if we went to a 45-day comment period?

Mrs. CAPPS. Mr. Speaker, will the gentleman yield?

Mr. POMBO. I yield to the gentlewoman from California.

Mrs. CAPPS. Mr. Speaker, if there were the kind of local processes that are in place now in NEPA to allow for that full discussion and have alternatives that are available for the public to have an input.

Mr. POMBO. Mr. Speaker, it does not change that part. It only changes the 45 days to 20 days. If we went to a 45-day comment period, would the gentlewoman then support the bill?

Mrs. CAPPS. Mr. Speaker, if the gentleman would continue to yield, I would have to be assured that the other pieces for having a local say would be there as well. But lengthening it to the 45 days would be more in compliance with the way it is now.

Mr. POMBO. And are there other things in the bill that change that local comment?

Mrs. CAPPS. Yes, there are; and I would be happy to discuss it further.

Mr. POMBO. Mr. Speaker, I would be willing to change it to the 45 days if that is the gentlewoman's opposition to the bill.

Mrs. CAPPS. That is one step. I would defer also to the ranking member and an ability to work that out.

Mr. POMBO. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), the former chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Speaker, let me take a moment to thank all of the Members of the House on both sides of the aisle for so many expressions of love and support, and most importantly, their prayers in the last several months. They have meant a great deal to me. I am so happy to be back working for the salary and doing my job for the people of Louisiana.

It is a particular pleasure to join Members in a week we are taking up energy, which has been so much of the subject of my congressional career in the past 24 years; and I am pleased to join the gentleman from California (Chairman POMBO) and the other Members who are rising in support of this very worthwhile bill.

This is about common sense. The one thing we have lacked in energy policy in America is common sense. We passed an amazingly complex energy bill, and we will vote on that conference report again this week, and ask our colleagues in the other body to please take it up for the sake of our country, at a time when we are experiencing outrageous gasoline prices and there are blackouts in Arizona and New Mexico which are having problems with their grids, and as we are experiencing large blackouts in the northeast which could be repeated because the energy bill we passed has not been signed into law and will do something to put in place standards for conduct on those electric grids that are going to keep them sound and stable in the future.

While we sit and play party politics and silly arguments about legal constraints of one kind or another, our country suffers from a dearth of energy, and yet we continue to consume it at alarming rates and become more and more dependent upon people we cannot depend upon to send us energy.

We have not built a refinery in this country in 25 years, and yet in the last 25 years we have built 751 million new automobiles and trucks to ply our highways. Where do Members think it comes from if we are not going to produce it at home? We had great debates about a bill that contained not only conservation provisions but new initiatives to produce new oil and gas and coal and other energy in this country, and great provisions for renewable energy. But what stands in the way to get renewable energy on board in this country is all of the laws which have been passed to stop the other energy projects.

What our chairman has brought to us is a bill of commons sense which says if renewable energy projects are a priority in America, if Members really believe that, if that is what really is behind their energy policy in all of the debates this House has had, and the Senate ought to have real soon if we are going to pass an energy bill for our country, if renewable energy is really our best option, then we need to make sure it does not get tied up in legal knots.

□ 1330

It says that when a renewable energy project is offered under NEPA, that you have got two choices: You either find out that the site chosen is a good site and it ought to be built here or you do not build it there. Public comments and local government involvement is still permitted, in fact encouraged in that process. Nobody says you have to build a renewable facility under this bill. It simply says you have got two choices: Build it or do not build it. But do not tie it up in legal knots.

What legal knots are we talking about? NEPA was constructed to make sure that if an oil and gas refinery was going to ever be built in this country, that before it was built the Environmental Protection Agency had to look at every other possible site it could be built at and rule them all out before you could build it here. If you take that view with every renewable facility, every energy project that was designed to produce energy from clean, green, renewable energy, then you are giving those people who do not want to see anything built the option of tying it up in legal knots.

What the chairman is offering you is a bill that says for this priority energy, good, clean, green energy for America, at least do not tie that up in legal knots. Either build it where it is proposed to be built or decide after public comments are published and listened to and digested that the site is wrong and you should not build it at all and then go look for another site. It does not cut off public comment. It does not cut off total environmental review for health and safety reasons. It does not cut out

total assessment of the site chosen. It simply says, do not tie it up in legal knots. At least move these energy projects forward so that we do not have to depend so much on foreign oil and on countries we cannot depend upon.

It comes down to this, folks. We either start doing some things like this in this country or we are still going to have to keep sending our sons and daughters to die in some other country protecting an oil field or refinery located in Saudi Arabia, Iraq, Iran or somewhere else. Think about it that way. Is it not time we in America value our own sons and daughters a little better than that? Would you not like to see the 35,000 people who are working in Saudi Arabia today who have been ordered home because there have been threats for their lives, would you not rather see them working in America building a wind farm or a renewable energy project? This bill says you can come home. You can work in America. We are going to start building some projects that are clean and green and good for this country.

Those who vote against it are saying, We don't want to build anything. We would rather keep sending our sons and our daughters into treacherous lands in the uniform of our country to die to defend somebody else's oil field, somebody else's refinery. This is commonsense stuff. Whatever we disagreed about before, we ought not disagree on this one. Let us build some good green energy facilities in America. If you do not like where they are sited, shut them down, go build them somewhere else, but let us speed this process along. That is all that Chairman POMBO wants. That is all this country ought to at least get out of this debate.

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

First I join with my colleagues in welcoming the gentleman from Louisiana back to the Congress. We know he has been through quite a battle and our prayers and thoughts were with him. I am glad to see that his full vim and vigor and rhetorical flourishes are back with us as well, the BILLY TAUZIN of old. It is good to have the gentleman back.

Let me say in response to some of his comments as well as my distinguished chairman of the full committee, the gentleman from California, as my good chairman knows and all Members of the body, I come from a coal-producing region of this country. Southern West Virginia has some of the best coal in the world. That is not just a parochial statement. I say to the gentleman that I certainly support the clean coal technology that is in the energy bill, even though it is peanuts compared to the tax credits and all the other goodies the oil industry gets, which is the main reason for my opposition to that bill. Nevertheless, clean coal technology is good, but we need more than lip service paid to clean coal technology if we want to develop alternative sources of energy in this country.

And in response to the gentleman's question of what am I for, I am for producing that coal. I am for the advanced technologies that would turn coal into gas and liquid fuel. That is what we need, are credits, incentives, other vehicles that will make it attractive for industry to produce that alternative fuel from coal. We are the Saudi Arabia of coal in this world. It makes no sense that we do not put in true incentives for developing that coal. I myself quite honestly would rather see a surface coal mining project than a windmill farm. That can be effectively reclaimed. It produces jobs both in the initial mining and in the reclamation process and in some cases can even clean up our environment better than previous to the mining. It certainly can provide better job-creating opportunities in the long run, such as industrial parks, the flatland is such a premium in the terrain from which I come, and other related industry that comes from such a project.

This current bill by eliminating the public input, by speeding it up so quickly that the public does not have an adequate say in the approval or disapproval process, in my opinion, does not add one iota to improving and increasing our domestic energy supplies. That is my problem with this bill, is that it does run roughshod over that process and I do not see where it is necessary to change that process, because that process, in this gentleman's opinion, has not hampered our energy production in this country. I want to see our domestic sources of energy explored further so we can indeed produce energy that this country needs without reliance upon foreign sources.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, I thank the gentleman for yielding. By our standards, this is an extremely short bill. It is 2½ pages. I have read and reread and looked at this. I do not see in here where they say that we are eliminating the public comment. It says consider public comments that specifically address the preferred action that are filed within 20 days. If it is the time limit part, if that is where they have the major heartburn over this, I will go to current law and 45 days if their opposition to the bill is based upon that. Because there is nothing else in here that eliminates all of the public comment that is currently required and accepted under NEPA. I am not sure where they are getting that. They might have read it in somebody's memo, but it is not in the bill.

Mr. RAHALL. Reclaiming my time, I would respond to the gentleman, the biggest problem I have is eliminating alternatives that are available to a project. It is either, as I understand the bill, the developer's alternative or no alternative to a project. That in my opinion is more devastating than limiting the public input time to 20 days which, the gentleman is correct, is the time limit in the bill. That is the problem that I have.

Mr. Speaker, I yield 4 minutes to the gentleman from New Mexico (Mr. UDALL), a distinguished member of the Committee on Resources.

Mr. UDALL of New Mexico. Mr. Speaker, I thank the ranking member, who has, I think, done an excellent job at raising the serious questions that need to be raised here, for yielding me this time. I also rise in opposition to this bill. As a representative of the Third District in New Mexico, I am a strong supporter of renewable energy projects. New Mexico has become home to many renewable energy projects and in our State renewable energy policy is very progressive. Just last year, the State legislature enacted a renewable portfolio standard that would require utilities to generate 10 percent of power from renewable energy sources by 2011. Our Governor and members of our congressional delegation have worked to make New Mexico a showcase for renewable energy. This can be done.

I think most if not all of my colleagues on this side of the aisle are great proponents of renewable energy. In fact, many of them are cosponsors of my bill to create a Federal renewable portfolio standard. Last night I tried to offer that bill as an amendment to the larger energy bill, but it was rejected by the Committee on Rules in favor of a closed rule, denying the amendment. That amendment would require electric utilities, except co-ops, to obtain 15 percent of their power from renewable energy resources by 2020 and an additional 5 percent by 2025 so that by 2025, 20 percent of retail electricity suppliers' power production would be derived from a portfolio of renewable energy resources.

If the author of this bill being debated today is serious about renewable energy, why is he so hesitant to support real reform of our energy policy? Why will he gladly strike regulations requiring environmental impact statements while refusing to enact a Federal renewable portfolio standard or even to debate it?

If Members think that H.R. 4513 is going to encourage and increase renewable energy projects, they are sorely mistaken. This bill will only serve to undermine the National Environmental Policy Act and to slash the current safeguards we have in place to ensure that new projects do not seriously harm our environment. I urge my colleagues to vote against this flawed bill.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. UDALL of New Mexico. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, where in the bill does it strike the need for environmental impact statements?

Mr. UDALL of New Mexico. It strikes the alternatives.

Mr. POMBO. The gentleman's statement said, and I appreciate him correcting that, because there is nothing

in this bill that slashes the environmental impact statement requirements. There is nothing in this bill that slashes any of our environmental laws.

Mr. UDALL of New Mexico. So the gentleman is saying that this does not impact NEPA at all? I do not think that is a correct reading. I believe that the NEPA requirements, the NEPA alternatives, are seriously impacted by this piece of legislation. And why are we cutting out the public when it comes to renewable energy?

Mr. POMBO. Where are we cutting out the public?

Mr. UDALL of New Mexico. Reclaiming my time, why are we cutting out the public when it comes to renewable energy? Why has this side of the aisle refused to debate the issues that are the real issues here, getting our power companies to participate and go forward with renewable energy? It seems to me that there is a lack of wanting an open debate. They want a closed system. They want a closed rule. They do not want any amendments. I do not understand it, but I guess they just do not want an open debate on these issues.

Mr. POMBO. Mr. Speaker, I yield myself 4 minutes. Just in response to my colleague, there is nothing in here that eliminates the public comment period. There is nothing in here that reduces the public comment. As I have said repeatedly, if the big problem is 20 days or 45 days to respond, then I would be happy to go to 45 days for their support on this bill.

In regard to the gentleman's amendment that he offered on the big energy bill, he is perfectly comfortable mandating that a State adopt 15 percent of their energy coming from a renewable resource but he is unwilling to do anything to make that happen. What we are trying to do in this particular piece of legislation is make it easier for people to build renewable energy projects. That right now has proven to be extremely difficult. In flying from the State of New Mexico, which is mostly public lands, into the State of Texas, you cross a line. On one side of the line they have renewable energy projects. On the other side of the line, they do not. It is the same conditions, the same wind, yet it is that much more difficult to build on public lands in the State of New Mexico than it is on private lands in the State of Texas. In my area of the country, in California, in my particular district, we have thousands of windmills. None of those are built on public land. They are built on private land. But you have to build windmills where the wind blows. You cannot just do it where somebody thinks it is a good idea. What we are trying to do is make it easier for people to build where the conditions are. In some cases that happens to be on public lands. That is what we are trying to do.

I do not understand how they can keep talking about being in favor of renewable energy and then scramble around and try to find a reason to be opposed to this bill.

Mr. UDALL of New Mexico. Mr. Speaker, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from New Mexico.

Mr. UDALL of New Mexico. Mr. Speaker, the gentleman from California knows we have lively debate in our committee.

Mr. POMBO. And I never stop that.

Mr. UDALL of New Mexico. The gentleman should be credited for that. But we are not being allowed alternatives on this bill. That is exactly what they have done in this bill on NEPA. They have an up-or-down NEPA process with no alternatives. That, I submit, is a sham process.

□ 1345

Mr. POMBO. Mr. Speaker, reclaiming my time, when one has a project, and I will take windmills, when one has a project and the wind blows on this hill and it is public land and they go to BLM and say we want to build a project of 200 windmills on this piece of land, the BLM looks at that. They go through all their environmental review, and they tell them yes or they tell them no. That is what we are trying to do. We do not want to spend 10 years in court deciding whether or not it meets all of the different alternatives that are put out there. If it does not meet all the environmental restrictions that are in place, if it does not have the environmental impact statement, if it does not meet the Endangered Species Act, all of the environmental restrictions, then BLM says no. It is not that complicated. You guys are just scrambling, looking for a reason to vote ''no.''

Mr. UDALL of New Mexico. Mr. Speaker, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from New Mexico.

Mr. UDALL of New Mexico. Mr. Speaker, we are voting ''no'' on a matter of principle.

Mr. POMBO. You are voting ''no'' on politics, and you know it.

Mr. UDALL of New Mexico. Is the gentleman going to yield to me or not?

Mr. POMBO. I yield to the gentleman.

Mr. UDALL of New Mexico. We are voting ''no'' because you have made a sham of the NEPA process by saying vote up or down. You know very well that what NEPA is all about is looking at alternatives. If you do not have any alternatives, you make it into a sham.

Mr. POMBO. Mr. Speaker, reclaiming my time, that is not what NEPA is all about. But what we are trying to do is make the system less bureaucratic, more efficient, force whoever is applying for the permit in that project to actually go at it in a way that it could become a reality. Right now, as the gentleman knows and I know, these projects are not being built on public lands and a big part of the reason is the bureaucracy.

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. UDALL), a valued member of our Committee on Resources.

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman from West Virginia for yielding me this time.

Mr. Speaker, I rise in opposition to this bill and express my opposition to the other energy bills we are considering today and tomorrow as part of what the Republican leadership is calling Energy Week.

I would like to start with this bill, the Renewable Energy Project Siting Act. As the Members know, I am cochair of the Renewable Energy and Energy Efficiency Caucus, so some may wonder how I can be opposed to the bill. And the answer is that the bill is not what it claims to be, and I oppose it for what it really is.

Voting against the bill does not mean opposing the development of clean renewable energy technologies. Instead, it means being opposed to rushing the development of energy projects without first subjecting them to the full environmental and public health review required by the National Environmental Policy Act, or NEPA.

In my experience and my understanding of the history, environmental analysis has not held up siting of a sound renewable energy project; so there is no need for the bill. If we look at the simple purpose of NEPA, it is to require that the Federal Government looks before it leaps to make sure that the benefits of a project do not come at the expense of the environment. That is a sound rule, and it should be maintained. So for that reason I cannot support this bill.

At this point let me, if I might, briefly discuss the other energy bills on this week's agenda. There is no doubt that we in the Congress need to pass a comprehensive energy bill. But the bills we will be considering this week will not address the real problems we face today, high energy prices and finite supplies of fossil fuels. Instead, at most it merely postpones the inevitable transition from hydrocarbons that we need to make by subsidizing oil and gas production at the expense of cleaner and more efficient technologies. Drilling in the wildlife refuge in Alaska will not help us get out of this bind, which is again one of the reasons I will oppose that bill when it is considered tomorrow.

And the other bill we will consider tomorrow, to make it easier for refineries to restart and be developed in areas of high unemployment by relaxing environmental regulations, will not do anything to affect oil prices and could create environmental hazards for the residents of these areas.

Mr. Speaker, the fact that the Republican leadership is forcing this debate on these bills we have already considered not only indicates a lack of imagination but also an admission that they have no plan to address rising gas prices and the energy needs of this country.

This appears to be an exercise in politics, not policy. If we get serious in

this House about addressing our energy concerns and developing a real energy policy, I know we can find common ground. But this week's showboating is not serious. I urge my colleagues to oppose these bills.

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

Mr. RAHALL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy for yielding me this time and permitting me to speak on this.

One would think that if our Republican colleagues were so concerned about renewable energy, they would not have bottled up the wind energy tax credit that has been allowed to expire, languishing, stopping projects in my district that the business community, the environmental community, and farmers, frankly, who would like to harvest a little wind, would have benefited from. The months go by. It ticks off. We could have had a clean, precise, up-or-down vote on extending the wind energy tax credit if we were serious about renewables. It would have passed by 400 votes on this floor if the gentleman and the Republicans were serious about it and not bollix it up with a whole range of other items. Instead, we are given a proposal that would compromise the development of renewable energy by narrowing the scope of NEPA.

It is true that we have a shell of NEPA under this proposal, but it is basically an up-or-down vote. They seek to compromise the amount of time that is used. It is part of this notion of dodging the fundamental issues, a failure to pass a comprehensive energy bill that would really help renewables; that would help energy conservation; that would provide a vigorous debate on the floor of this House on things that would be able to help move the country forward. Instead, we are given this proposal.

Let us talk about this proposal for a moment. Certainly, hydroelectric energy is a renewable resource. We have got 400 or more dams that were licensed in the 1950s that were never under the NEPA process. If this proposal that has been advocated for us today is approved, these 400 dams will move forward without ever having the benefit of the complete environmental review. It is not about just an up-or-down. Anybody who has worked in areas where there has been significant environmental controversy knows that having the full range of alternatives being discussed, being debated, being analyzed results in having stronger proposals.

I have listened in vain to hear all of the proposals that have been sidetracked because renewables have been bollixed up in some sort of protracted environmental analysis. We are still listening. Where is the list of the projects? I am not aware of any. But let me say that there is a precise analogy to what happens sometimes on projects that have been hung up when we look at some that are in the infrastructure arena and what happens when people ignore the requirements of the law, when people do not engage the public, when they do not do a good job of studying the environmental impacts. Then we find that people push back. Then we find that we have inadequate proposals. Then the local politics intervene, and the people insist that the project be halted so it can be done right.

I would respectfully suggest that enabling hydroprojects to be built in virtually any waterway in the United States without a full range of environmental analysis is not good public policy and will engender more negative reaction. To have 400 dams that were never involved with a full range to begin with go through relicensing under this proposal would be a mistake.

I would hope the time will come that we can have an honest debate on a range of proposals that the American public deserves.

Mr. POMBO. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from New York (Mr. BOEHLERT).

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

Mr. BOEHLERT. Mr. Speaker, I rise in opposition to this bill.

Mr. Speaker, this bill is the ultimate Trojan horse. It is an attack on fundamental environmental policy dressed up to look like an effort to promote alternative energy.

Alernative energy is not being held back by environmental law. There are many steps we could take to promote alternative energy—through tax incentives, through research and development spending, through renewable portfolio standards, through energy efficiency standards. But we're not taking many of those steps. Instead, we're offered this false choice between environmental policy and alternative energy.

This bill would undermine the fundamental protection offered by the National Environmental Policy Act, or NEPA. Under this bill, alternative proposals would not have to be examined. What that does is disempower individuals and communities, who will no longer be able to fully debate where and whether alternative energy projects would be built. Reforming NEPA is one thing and I am receptive to working constructively toward that end, but abandoning it is something else indeed and should not be allowed.

And keep in mind that alternative energy in this bill is very broadly defined. Garbage incinerators would qualify; new dams would qualify. This bill would short-circuit review of such projects.

I am one of the strongest supporters of alternative energy in this Congress. I get frustrated when folks fight against wind farms on aesthetic grounds, for example. But I don't think that we need to avoid proper environmental review on alternative energy projects.

I urge my colleagues not to fall for this charade. Vote "no."

Mr. POMBO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I would like to tell the gentleman from Oregon (Mr. BLUMENAUER), and I guess he has left the floor, one such wind project that has been held up by lawsuits is a project off Nantucket Sound. The investors are there; the money is there. But there has been a lot of opposition to that wind project.

I do have to agree with the gentleman from Colorado on one thing. Everything that has been said here today is about politics, but it is about politics on that side of the aisle. They want to have it both ways, Mr. Speaker. They want to say they support renewable energy production in the United States, but they do not because they look for anything they can find to vote against any proposal that is made going in the right direction to increase our renewable energy supply.

Let us talk about this just for a minute. I want to explain the process of a NEPA review. There is an investor that spends millions and millions of dollars in order to put together a proposal to bring it to the point that it asks for an environmental review. Beyond that, the government spends millions and millions and millions of dollars going through this analysis, compiling the information. So if one asks for a project, a renewable energy project, the actual effect that this bill will have by reducing the number of alternatives is that it will make the investor come with the best environmental deal he can possibly put together because he has only got one shot at it. All of those millions have to be spent before he makes one penny. He has got one shot at it. Either the project is approved or it is not. Not one environmental aspect is changed. There is no lowering of the public comment. The only difference is the time. And as the chairman said, he will increase the scoping period to 45 days.

But I ask you to quit trying to have it both ways. Think of America before you think of your own personal politics and the politics of the extreme environmental organizations of this country. They come right out and they say they do not want any production. Why do you not be honest and say the same. In your mind it is all about defeating George Bush. You are putting politics first.

We need to produce energy for this country because we are nationally in jeopardy; our safety is in jeopardy; and our future and the future of our children is in jeopardy. So I ask the Members to support this bill. Allow these projects to be heard and not held up in courts of law for 10 or 15 years.

□ 1400

Mr. RAHALL. Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from West Virginia (Mr. RAHALL) has 6½ minutes.

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

Mr. Speaker, in response to several comments made on the other side and in further response to what I said earlier, it is not the fact that the majority is trying to eliminate completely the public comment phase of NEPA.

As I noted in my opening comments, they would limit that to 20 days, and I understand through the debate there is going to be an offer to extend that to 45 days; but that is not the main issue that we have tried to make on this side of the aisle.

The main issue is the fact that in the pending legislation, alternatives to renewable energy development would be eliminated. Take one example from my home State of West Virginia. If a developer comes in and wants to develop a wind farm on a beautiful mountain site in Pocahontas County, then the way this bill is constructed, there are only two alternatives. Either the developer's initial proposal accepted or rejected; or a rejection, no project at all.

There would be no process whereby alternative sites would be considered, whether for environmental or whether for economic or whether for social or whatever other reasons may come into play. The developer could not consider an alternative site maybe over another mountain ridge, because this pending bill, by wiping out the Federal agency's alternative to look at alternatives, strikes that completely; and that is the main reason that I am opposing this bill.

We have asked for sites from the majority, for examples of sites that have been delayed because of unnecessary NEPA regulations. The gentlewoman from Wyoming (Mrs. CUBIN) finally came up with one site. She mentioned a windmill farm in the Cape Cod area, and I would like to respond by reading from the developer himself. This is from Dennis Duffy, the vice president of regulatory affairs for the Cape Wind Associates, as quoted in the Cape Cod Times, when he said, ''The Cape Wind, the developer in this case, fully agrees with the Federal authority that offshore commercial activity should be based on a full and fair review of proposed developments, including consideration of human, economic, social, and environmental factors as well as other potential uses of the seas.''

He went on, ''The ongoing review of the Cape Wind project is proceeding in full compliance with the provisions of both NEPA and the Coastal Zone Management Act and specifically includes the preparation of comprehensive EIS and the consideration of alternative project locations.''

So the example cited by the gentlewoman from Wyoming (Mrs. CUBIN), I submit, is not one that calls for the gutting of NEPA.

In conclusion, Mr. Speaker, this legislation is unnecessary. The proponents have failed to produce projects that have been held up that would call for the enactment of this legislation.

In addition, there have been charges from the other side that politics come into play on this legislation. Well, I am kind of shocked. The last I checked, they are in control of the agenda in this body. Our side is not in control of that agenda. The last time I checked, this is part of an energy message week, originally scheduled for last week but postponed until this week. And I dare say that a few of the bills on the agenda in this body this week, while no doubt will pass, will never see the light of day in the other body because more reasoned and judgmental Members will make decisions thereupon.

So I think that is a false charge and one that should never have been brought up in the first place.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind the Members to avoid improper references to the Senate.

Mr. RAHALL. I guess the Speaker was calling into question my describing the other body as the reason?

The SPEAKER pro tempore. The Chair was simply reminding Members that remarks in debate in the House may not characterize actions of the Senate or its Members.

Mr. POMBO. Mr. Speaker, I have just myself as the closing speaker. Does the gentleman from West Virginia (Mr. RAHALL) have additional speakers?

Mr. RAHALL. No. Mr. Speaker, I have no further requests for time on this side. I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield myself the balance of our time and will just say I appreciate the gentleman from West Virginia's (Mr. RAHALL) statement, and we have had over the last year and a half a chance to work together on a lot of different issues. I will tell my colleagues, on this bill we are trying to streamline the process and move it along. The gentleman's example, the letter that he read from the gentleman from Massachusetts, I think is a valuable example of what is wrong with the current system. If you actually look at the letter that the gentleman just read, he does not say in there that the process has not been held up by the current system. He is saying that they are going along with the current NEPA process and the EIS process and everything else, and I agree with that.

I believe that NEPA is an extremely valuable tool for the Federal Government and for our bureaucrats out there to make sure that anything that is going forward on public lands has the minimal impact on the environment, and that is what we should do. But in the gentleman's example about someone wanting to build a windmill farm in a pristine site, if that is the case, if someone comes forward with a windmill farm in a pristine site that BLM or Park Service or Forest Service or anyone else says they do not want windmill farms there, they say no.

What we are trying to avoid is multiple years of going through the process of studying non-viable options to that specific project, and that is what is considered under current law.

If you want examples of where this is not working, all you have to do is look at the difference between New Mexico and Texas. Where in Texas they are developing alternative energy and they have windmill sites on the public lands, across the border in New Mexico they are not building them. It is not because anybody was told no, it is because the developers look at it and they say, I can build here and start within a year or two. If I try to do it on public lands, it is going to take me 4, 5 or 10 years to go through the process. So they do not even try.

If you are in favor of doing alternative energy projects, then you have to support this bill, because that is what we are doing. We are trying to streamline the process in order to bring those projects on.

The gentleman from Oregon earlier talked about the wind energy tax credit. I am a huge proponent of that. We have windmills in my district. If it was not for the tax credit, they never would have been built. But they were built on private land. None of the public land has windmills on it because of the process that they have to go through. If the gentleman is angry about the wind energy tax credit, that is simple: Just tell the Senate to pass the energy bill. It is in there. We have passed it out of here three times already.

So as we move forward with this legislation, I would encourage my colleagues on the left to take another look at it, because this truly is an intent to bring more alternative energy into the process and to make it a viable industry for all of the people that are out there trying to find different ways, other than fossil fuel, to power our country.

Finally, I would say to my friend from West Virginia, when you are talking about windmills, you have to build them where the wind is. You cannot go to the developer and say we want you to pick an alternative site. That is like going to your coal miners and saying we want you to pick an alternative site. They have to mine where the coal is. You cannot tell them go look in my district in California. We do not have coal. In your district you do. That is why they mine for coal there.

Well, we have wind. That is where the wind is, and that is where you have to build the windmills. That is the same thing on public lands, you have to build them where the wind blows. To try to tell them they have to pick an alternative site, really, you are not accomplishing anything if you truly want to bring alternative energy into the market.

Finally, I would just say as we move forward with this bill, if there are specific issues in here that the gentleman wants to work on, I will work with him on it, and he knows that. If it is 20 days

or 45 days, we can look at the difference between doing that. But we really do need to move forward with this bill.

Mr. DELAHUNT. Mr. Speaker, I join today with a dozen national environmental organizations in opposing legislation rushed to the House floor to gut the National Environmental Policy Act, as well as three other shopworn legislative assaults on conservation statutes.

In recent months, the Republican congressional leadership has packaged groups of bills—often proposals rejected in the past—for congressional votes to highlight a partisan rhetorical theme. This week's emphasis is on energy policy, bringing a battery of four measures before the House. These measures include provisions to open the Arctic National Refuge for energy exploration and to provide liability protection for groundwater contaminants. None of the bills will reach the Senate; none will become law.

While none of these proposals will become law, they reflect the congressional leadership's obsession with private energy speculators over the public interest. In recent years the Congress has rubber-stamped Bush Administration proposals to defer stewardship of public lands to mining, grazing and timber interests. Today, the Leadership is offering an even bigger prize, the gutting of the National Environmental Policy Act (NEPA).

The ''Renewable Energy Project Siting Improving Act'' is designed to weaken one of the bedrock federal environmental protection statutes, ostensibly to ''promote'' renewable energy. When enacted 30 years ago at the behest of President Nixon, NEPA was landmark legislation to create a coherent and predictable framework for responsible environmental decisions—among other things, guiding the scope and preparation of environmental impact statements (EIS). Many states, including Massachusetts, have used NEPA as models for their own statutes.

The NEPA-related bill brought before the Congress today would:

Effectively eliminate the EIS by forbidding public agencies from even considering alternatives to a project under review;

Broaden the definition of a ''renewable energy project, potentially to include coal mines, oil shale, or even oil and gas drilling; and,

Cut back the comment period on proposed projects to 20 days, making it virtually impossible for states or the public at large to participate.

Given the sweeping nature of these proposed changes, it is particularly galling that the legislation reached the House floor within days of its original introduction—and without a single hour of committee deliberation. As the Medicare discount cards were a gift to the pharmaceutical industry, the energy siting bill would grant substantial new leverage to the energy industry developers of a wide range of projects, from hydroelectric dams to wood-burning plants to offshore wind farms.

If this Congress has any real desire to promote renewable energy, a perfect place to start is with policies and standards to develop offshore wind power. Our oceans provide significant opportunities to develop renewable energy from the wind. Projects of all sizes are being considered up and down the east coast, as well as in Nantucket Sound—nominated on several occasions by federal and state officials to be designated a national marine sanctuary, until Congress placed a national moratorium on that process.

Even though the Congress has yet to authorize the use of federal waters for this purpose, developers are floating trial balloon projects in many locations. In the wake of all this interest, the consensus in Congress and among a number of federal, state and local officials is that we need new and better policies—not less scrutiny—to guide the siting and licensing of these projects.

Even President Bush's Ocean Commission agrees. They were charged with developing practical recommendations to improve the management of our coast. They rightly condemn the current regulatory process led by the Army Corps of Engineers, but at the same time outline a number of constructive recommendations which could accelerate the development of responsible offshore wind farms. Yet not one of the commission's recommendations can be found in this proposal; and on occasion has the President's Ocean Commission cited NEPA as an issue of concern.

At the very least, the Congress could consider my own bipartisan proposal, the Offshore Renewable Energy Promotion Act, which authorizes the use of our oceans for renewable energy projects. It creates a siting process that brings together states, fishermen, mariners and other marine interests to first identify the best sites, uses and scale of projects. It embraces the concept of ocean zoning, an approach similar to that used on land where local officials guide development to the best locations, protecting important natural resources and minimizing conflicting uses.

The proposal I introduced with Republican Congressman JIM SAXTON, builds on existing coastal zone planning efforts. It proposes a transparent bidding and licensing process that is open to all, even municipal or local utilities, similar to offshore oil and gas. Even the ocean task force established by Republican Governor Mitt Romney strongly criticizes the current first-come first-served approach, which rewards developers to exploit gaps in current law.

It's bad enough that the Leadership insists on taking valuable floor time to rehash bills that the Congress has already debated and voted on. It's inconceivable that, in the name of renewable energy, we're asked to turn one of our most effective environmental statutes into one of the biggest loopholes in the U.S. Code.

That's why this bill has earned the vigorous opposition of the Sierra Club, Friends of the Earth, the National Environmental Trust, National Wildlife Foundation, World Wildlife Fund, Defenders of Wildlife, Union of Concerned Scientists, National Resources Defense Council and countless others with genuine concern about environmental protection. On their behalf, I urge my colleagues to join with me in voting in opposition to H.R. 4513.

Ms. MCCARTHY of Missouri. Mr. Speaker, I strongly support a comprehensive national solution to our energy needs. In developing a national energy policy, it is imperative that we address cost, reliability, environmental impact, and consumer protection. We must consider ways to invest in alternative energy technologies to reduce dependence on foreign oil, provide stable prices for consumers and businesses, address global warming and bolster our nation's energy security. I supported the original Energy and Commerce Committee measure which accomplished these objectives. H.R. 4503 reinforces our dependency on foreign sources rather than providing the American people with a more secure system, H.R. 4503 exempts energy production companies from vital environmental regulations. Further, it repeals the Public Utility Holding Company Act, a law specifically designed to protect ratepayers from risky investments. Instead of preventing another California energy crisis or Enron scam, this legislation opens the door for more corporate fraud.

This legislation fails to offer any meaningful assistance in the effort to update and modernize our nation's transmission system. Although Missouri was not affected by the recent blackouts, much of our transmission system suffers from the same outdated equipment that left our neighbors to the north and east in the dark.

This legislation also fails to secure our nation's drinking water. Despite the fervent objections of communities who experienced the devastating effects of the dangerous fuel additive MTBE, this legislation includes a waiver of all liability for MTBE manufacturers. MTBE has contaminated the drinking water of hundreds of towns and cities across the national and this legislation forces taxpayers instead of polluters to pay the bill. The Senate has already voiced its displeasure with this provision and the Republican leadership knows that this bill could actually become law if they removed this harmful waiver.

Today, the House is also considering H.R. 4513, the Renewable Energy Project Siting Improvement Act. As a strong advocate of renewable power, I fully support efforts to expand our reliance on renewable energy sources. In addition to their numerous environmental benefits, renewable energies also decrease our reliance on foreign sources of energy. Unfortunately, today's bill is actually opposed by leading advocates of renewable energy because it shortchanges federal, state, and local policymakers who want to be involved in the careful and correct planning of renewable energy projects. Mr. Speaker, renewable projects in this bill, including incinerators and dams, often leave an enormous footprint on surrounding communities and ecosystems. Yet this legislation would limit the options available to policymakers when considering the approval of these projects. The bill would also severely limit the public comment period available to local communities and leaders concerned about the impact of these projects. I would hope all of my colleagues will join me in rejecting this ill conceived legislation.

This week, the House is also expected to consider H.R. 4517, the Refinery Revitalization Act. This bill, which was never considered by the Energy and Commerce Committee, creates procedures intended to expedite the process of restarting idle oil refineries or constructing new refineries. To accomplish this goal, this legislation would designate the Energy Department as the lead agency for all refinery permitting. Under this bill, local, state, and EPA permitting processes would be skipped. The Energy Department would be given the authority to impose strict deadlines for completion of permitting, and would have the ability to drastically limit public comment and appeals. I hope my colleagues reject this measure and work together for a solution that reduces cost to consumers without detriment to our environment.

Mr. Speaker, Americans deserve an energy policy that protects our consumers, our environment, and our national security. I support legislation that will provide a real, long-term, comprehensive energy policy. The Democratic motion to recommit will work to lower gas prices, stop price gouging, and prevent future blackouts. I urge all my colleagues to support this sensible, long term alternative.

Mr. MARKEY. Mr. Speaker, I rise in opposition to H.R. 4513, the Renewable Energy Project Siting Improvement Act.

This bill should really be called the Nonnegotiable Energy Project Siting Act. This is a gift to those who would like to gut the National Environmental Policy Act, wrapped in the green paper of renewable energy.

If the Republican leadership really cared about increasing renewable energy use in America, today we would be debating the extension of a renewable energy production tax credit, or a renewable portfolio standard or even national interconnection standards. Those are the policy priorities of the renewable energy industry, not gutting our national environmental laws.

Instead of taking up those policy priorities, the Republican leadership has decided instead to just take the public out of the process. H.R. 4513 would eliminate the requirement that any alternative other than not building the project be considered, and it limits the public comment period to just 20 days. 20 days is an inadequate amount of time for the public to respond to complicated energy projects like hydroelectric dams and waste incineration, which are included in the bill's broad definition of ''renewable energy project.'' This bill says to sportsmen and Indian tribes that their comments on potentially harmful dam projects don't matter. This bill says to parents that their comments on plans to build dirty waste incinerators next to their children's schools don't matter.

This is a Republican solution in search of a problem. You'll hear a lot about wind energy today, but the fact of the matter is that 6374 megawatts of wind power have been developed under the current regulations. It is the start-stop nature of the renewable energy production tax credits under the Republican controlled Congress and White House that are making it difficult for developers to bring more wind energy online.

Democrats are ready to debate long-term production tax credits. Democrats are ready to debate a national Renewable Portfolio Standard. Democrats are ready to debate interconnection standards. But instead the Republicans just want to eliminate public involvement in energy projects that impact their families.

I urge my colleagues to vote against this misguided bill and preserve the public's right to comment on energy projects—renewable or not—that impact their families.

The SPEAKER pro tempore (Mr. ISAKSON). All time for debate having expired or been yielded back, it is now in order to consider the amendment made in order pursuant to House Resolution 672 in Part A of House Report 108–540.

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Speaker, I offer an amendment.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A Amendment printed in House Report 108–540 offered by Mr. POMBO:

Page 3, beginning at line 13, strike ''or the combustion of''.

Page 3, line 13, insert a comma after ''oil''.

The SPEAKER pro tempore. Pursuant to House Resolution 672, the gentleman from California (Mr. POMBO) and a Member opposed each will control 5 minutes.

Mr. RAHALL. Mr. Speaker, although not in opposition to the amendment, I wish to claim the time in opposition.

The SPEAKER pro tempore. Without objection, the gentleman from West Virginia will control the time in opposition.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. POMBO).

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

Mr. Speaker, this amendment would clarify that the environmental review process in H.R. 4513 would not apply to oil and gas leasing activities. This amendment would remove any confusion about what this bill does or does not do.

We have discussed this bill with the minority and they offered this change to the base text. After having gone back and forth, I believe this is a necessary change to the underlying bill to eliminate any confusion that there may be. By making this change, this amendment incorporates all of their proposed changes, short of rewriting the bill. Rewriting this bill would mean doing nothing to promote renewable energy development, which I find unacceptable.

I support this amendment, and I urge its adoption.

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

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

Mr. Speaker, we have no objection to the gentleman from California's amendment clarifying the obvious fact that oil and gas and coal are not renewable energy sources.

I do not think though that this is the end of the attempts to expand NEPA exemptions, and I urge those concerned about the integrity of coastal areas to remain vigilant. I would note, however, that even with this amendment, the pending legislation could be construed as providing NEPA exemptions to the construction of new hydropower dams on rivers and it could apply to incinerators using garbage or other waste products.

As I read the text, the exemptions in this bill include hydropower and incinerators which general power. As the gentleman from California is well aware, siting of dams and incinerators are very controversial matters and it is important, I believe, that the public knows what we are doing here on the floor today to their rights.

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

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

Mr. Speaker, in conclusion, I appreciate the gentleman working with me on this particular amendment, but again I would say that in regard to his final comments there is nothing in this bill that eviscerates, guts, dissects or any other thing our Nation's environmental laws. All it does is it makes the system more efficient by reducing the number of alternatives that have to be looked at on a renewable energy project.

If somebody wants to build a garbage burning incinerator in the middle of a national park, we both know that the answer is no before they even apply for a permit. But I guess trying to scare people on this tries to make things work.

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

The SPEAKER pro tempore. All time having been yielded, pursuant to House Resolution 672, the previous question is ordered on the bill and on the further amendment by the gentleman from California (Mr. POMBO).

The question is on the amendment offered by the gentleman from California (Mr. POMBO).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4513.

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

There was no objection.

ENERGY POLICY ACT OF 2004

Mr. HALL. Mr. Speaker, pursuant to House Resolution 671, I call up the bill (H.R. 4503) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

The Clerk read the title of the bill.

The text of H.R. 4503 is as follows:

H.R. 4503

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 ''Energy Policy Act of 2004''.

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

Sec. 1. Short title; table of contents.

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

Sec. 101. Energy and water saving measures in congressional buildings.
Sec. 102. Energy management requirements.
Sec. 103. Energy use measurement and accountability.
Sec. 104. Procurement of energy efficient products.
Sec. 105. Energy Savings Performance Contracts.
Sec. 106. Energy Savings Performance Contracts pilot program for non-building applications.
Sec. 107. Voluntary commitments to reduce industrial energy intensity.
Sec. 108. Advanced Building Efficiency Testbed.
Sec. 109. Federal building performance standards.
Sec. 110. Increased use of recovered mineral component in Federally funded projects involving procurement of cement or concrete.

Subtitle B—Energy Assistance and State Programs

Sec. 121. Low income home energy assistance program.
Sec. 122. Weatherization assistance.
Sec. 123. State energy programs.
Sec. 124. Energy efficient appliance rebate programs.
Sec. 125. Energy efficient public buildings.
Sec. 126. Low income community energy efficiency pilot program.

Subtitle C—Energy Efficient Products

Sec. 131. Energy Star Program.
Sec. 132. HVAC maintenance consumer education program.
Sec. 133. Energy conservation standards for additional products.
Sec. 134. Energy labeling.

Subtitle D—Public housing

Sec. 141. Capacity building for energy-efficient, affordable housing.
Sec. 142. Increase of cdbg public services cap for energy conservation and efficiency activities.
Sec. 143. FHA mortgage insurance incentives for energy efficient housing.
Sec. 144. Public housing capital fund.
Sec. 145. Grants for energy-conserving improvements for assisted housing.
Sec. 146. North American Development Bank.
Sec. 147. Energy-efficient appliances.
Sec. 148. Energy efficiency standards.
Sec. 149. Energy strategy for HUD.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

Sec. 201. Assessment of renewable energy resources.
Sec. 202. Renewable energy production incentive.
Sec. 203. Federal purchase requirement.
Sec. 204. Insular areas energy security.
Sec. 205. Use of photovoltaic energy in public buildings.
Sec. 206. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, petroleum-based product substitutes, and other commercial purposes.
Sec. 207. Biobased products.

Subtitle B—Geothermal Energy

Sec. 211. Short title.
Sec. 212. Competitive lease sale requirements.
Sec. 213. Direct use.
Sec. 214. Royalties and near-term production incentives.
Sec. 215. Geothermal leasing and permitting on Federal lands.
Sec. 216. Review and report to Congress.
Sec. 217. Reimbursement for costs of NEPA analyses, documentation, and studies.
Sec. 218. Assessment of Geothermal energy potential.
Sec. 219. Cooperative or Unit plans.
Sec. 220. Royalty on byproducts.
Sec. 221. Repeal of authorities of Secretary to readjust terms, conditions, rentals, and royalties.
Sec. 222. Crediting of rental toward royalty.
Sec. 223. Lease duration and work commitment requirements.
Sec. 224. Advanced royalties required for suspension of production.
Sec. 225. Annual rental.
Sec. 226. Leasing and permitting on Federal lands withdrawn for military purposes.
Sec. 227. Technical amendments.

Subtitle C—Hydroelectric

PART I—ALTERNATIVE CONDITIONS

Sec. 231. Alternative conditions and fishways.

PART II—ADDITIONAL HYDROPOWER

Sec. 241. Hydroelectric production incentives.
Sec. 242. Hydroelectric efficiency improvement.
Sec. 243. Small hydroelectric power projects.
Sec. 244. Increased hydroelectric generation at existing Federal facilities.
Sec. 245. Shift of project loads to off-peak periods.
Sec. 246. Corps of Engineers hydropower operation and maintenance funding.
Sec. 247. Limitation on certain charges assessed to the flint creek project, Montana.
Sec. 248. Reinstatement and transfer.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
Sec. 302. National Oilheat Research Alliance.

Subtitle B—Production Incentives

Sec. 311. Definition of Secretary.
Sec. 312. Program on oil and gas royalties in-kind.
Sec. 313. Marginal property production incentives.
Sec. 314. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
Sec. 315. Royalty Relief for deep water production.
Sec. 316. Alaska offshore royalty suspension.
Sec. 317. Oil and gas leasing in the National Petroleum Reserve in Alaska.
Sec. 318. Orphaned, abandoned, or idled wells on Federal land.
Sec. 319. Combined hydrocarbon leasing.
Sec. 320. Liquified natural gas.
Sec. 321. Alternate energy-related uses on the outer Continental Shelf.
Sec. 322. Preservation of geological and geophysical data.
Sec. 323. Oil and gas lease acreage limitations.
Sec. 324. Assessment of dependence of State of Hawaii on oil.
Sec. 325. Deadline for decision on appeals of consistency determination under the Coastal Zone Management Act of 1972.
Sec. 326. Reimbursement for costs of NEPA analyses, documentation, and studies.
Sec. 327. Hydraulic fracturing.
Sec. 328. Oil and gas exploration and production defined.
Sec. 329. Outer Continental Shelf provisions.
Sec. 330. Appeals relating to pipeline construction or offshore mineral development projects.
Sec. 331. Bilateral international oil supply agreements.
Sec. 332. Natural gas market reform.
Sec. 333. Natural gas market transparency.

Subtitle C—Access to Federal Land

Sec. 341. Office of Federal Energy Project Coordination.
Sec. 342. Federal onshore oil and gas leasing and permitting practices.
Sec. 343. Management of Federal oil and gas leasing programs.
Sec. 344. Consultation regarding oil and gas leasing on public land.
Sec. 345. Estimates of oil and gas resources underlying onshore Federal land.
Sec. 346. Compliance with executive order 13211; actions concerning regulations that significantly affect energy supply, distribution, or use.
Sec. 347. Pilot Project to improve Federal permit coordination.
Sec. 348. Deadline for consideration of applications for permits.
Sec. 349. Clarification of fair market rental value determinations for public land and Forest Service rights-of-way.
Sec. 350. Energy facility rights-of-way and corridors on Federal land.
Sec. 351. Consultation regarding energy rights-of-way on public land.
Sec. 352. Renewable energy on Federal land.
Sec. 353. Electricity transmission line right-of-way, cleveland national forest and adjacent public land, California.
Sec. 354. Sense of Congress regarding development of MINERALS under Padre Island National Seashore.
Sec. 355. Encouraging prohibition of offshore Drilling in the Great Lakes.
Sec. 356. Finger Lakes National Forest withdrawal.
Sec. 357. Study on lease exchanges in the rocky mountain front.
Sec. 358. Federal coalbed methane regulation.
Sec. 359. Livingston parish mineral rights transfer.

Subtitle D—Alaska Natural Gas Pipeline

Sec. 371. Short title.
Sec. 372. Definitions.
Sec. 373. Issuance of certificate of public convenience and necessity.
Sec. 374. Environmental reviews.
Sec. 375. Pipeline expansion.
Sec. 376. Federal Coordinator.
Sec. 377. Judicial review.
Sec. 378. State jurisdiction over in-State delivery of natural gas.
Sec. 379. Study of alternative means of construction.
Sec. 380. Clarification of angta status and authorities.
Sec. 381. Sense of Congress concerning use of steel manufactured in North America negotiation of a project labor Agreement.
Sec. 382. Sense of Congress and study concerning participation by small business concerns.

Sec. 383. Alaska pipeline construction training Program.
Sec. 384. Sense of Congress concerning natural gas demand.
Sec. 385. Sense of Congress concerning Alaskan ownership.
Sec. 386. Loan guarantees.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

Sec. 401. Authorization of appropriations.
Sec. 402. Project criteria.
Sec. 403. Report.
Sec. 404. Clean coal centers of excellence.

Subtitle B—Clean Power Projects

Sec. 411. Coal technology loan.
Sec. 412. Coal gasification.
Sec. 413. Integrated gasification combined cycle technology.
Sec. 414. Petroleum coke gasification.
Sec. 415. Integrated coal/renewable energy system.
Sec. 416. Electron scrubbing demonstration.

Subtitle C—Federal Coal Leases

Sec. 421. Repeal of the 160-acre limitation for coal leases.
Sec. 422. Mining plans.
Sec. 423. Payment of advance royalties under coal leases.
Sec. 424. Elimination of deadline for submission of coal lease operation and reclamation plan.
Sec. 425. Amendment relating to financial assurances with respect to bonus bids.
Sec. 426. Inventory requirement.
Sec. 427. Application of amendments.

Subtitle D—Coal and Related Programs

Sec. 441. Clean air coal program.

TITLE V—INDIAN ENERGY

Sec. 501. Short title.
Sec. 502. Office of Indian Energy Policy and Programs.
Sec. 503. Indian energy.
Sec. 504. Four corners transmission line project.
Sec. 505. Energy efficiency in federally assisted housing.
Sec. 506. Consultation with Indian tribes.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

Sec. 601. Short title.
Sec. 602. Extension of indemnification authority.
Sec. 603. Maximum assessment.
Sec. 604. Department of energy liability limit.
Sec. 605. Incidents outside the United States.
Sec. 606. Reports.
Sec. 607. Inflation adjustment.
Sec. 608. Treatment of modular reactors.
Sec. 609. Applicability.
Sec. 610. Prohibition on assumption by United States government of liability for certain foreign incidents.
Sec. 611. Civil penalties.

Subtitle B—General Nuclear Matters

Sec. 621. Licenses.
Sec. 622. NRC training program.
Sec. 623. Cost recovery from government agencies.
Sec. 624. Elimination of pension offset.
Sec. 625. Antitrust review.
Sec. 626. Decommissioning.
Sec. 627. Limitation on legal fee reimbursement.
Sec. 628. Decommissioning pilot program.
Sec. 629. Report on feasibility of developing commercial nuclear energy generation facilities at existing Department of Energy sites.
Sec. 630. Uranium sales.
Sec. 631. Cooperative research and development and special demonstration projects for the uranium mining industry.
Sec. 632. Whistleblower protection.
Sec. 633. Medical isotope production.
Sec. 634. Fernald byproduct material.
Sec. 635. Safe disposal of greater-than-class c radioactive waste.
Sec. 636. Prohibition on nuclear exports to countries that sponsor terrorism.
Sec. 637. Uranium enrichment facilities.
Sec. 638. National uranium stockpile.

Subtitle C—Advanced Reactor Hydrogen Cogeneration Project

Sec. 651. Project establishment.
Sec. 652. Project definition.
Sec. 653. Project management.
Sec. 654. Project requirements.
Sec. 655. Authorization of appropriations.

Subtitle D—Nuclear Security

Sec. 661. Nuclear facility threats.
Sec. 662. Fingerprinting for criminal history record checks.
Sec. 663. Use of firearms by security personnel of licensees and certificate holders of the commission.
Sec. 664. Unauthorized introduction of dangerous weapons.
Sec. 665. Sabotage of nuclear facilities or fuel.
Sec. 666. Secure transfer of nuclear materials.
Sec. 667. Department of homeland security consultation.
Sec. 668. Authorization of appropriations.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

Sec. 701. Use of alternative fuels by dual-fueled vehicles.
Sec. 702. Neighborhood electric vehicles.
Sec. 703. Credits for medium and heavy duty dedicated vehicles.
Sec. 704. Incremental cost allocation.
Sec. 705. Alternative compliance and flexibility.
Sec. 706. Review of Energy Policy Act of 1992 programs.
Sec. 707. Report concerning compliance with alternative fueled vehicle purchasing requirements.

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART I—HYBRID VEHICLES

Sec. 711. Hybrid vehicles.

PART II—ADVANCED VEHICLES

Sec. 721. Definitions.
Sec. 722. Pilot program.
Sec. 723. Reports to Congress.
Sec. 724. Authorization of appropriations.

PART III—FUEL CELL BUSES

Sec. 731. Fuel cell transit bus demonstration.

Subtitle C—Clean School Buses

Sec. 741. Definitions.
Sec. 742. Program for replacement of certain school buses with clean school buses.
Sec. 743. Diesel retrofit program.
Sec. 744. Fuel cell school buses.

Subtitle D—Miscellaneous

Sec. 751. Railroad efficiency.
Sec. 752. Mobile emission reductions trading and crediting.
Sec. 753. Aviation fuel conservation and emissions.
Sec. 754. Diesel fueled vehicles.
Sec. 755. Conserve by Bicycling Program.
Sec. 756. Reduction of engine idling of heavy-duty vehicles.
Sec. 757. Biodiesel engine testing program.
Sec. 758. High occupancy vehicle exception.

Subtitle E—Automobile Efficiency

Sec. 771. Authorization of appropriations for implementation and enforcement of fuel economy standards.
Sec. 772. Revised considerations for decisions on maximum feasible average fuel economy.
Sec. 773. Extension of maximum fuel economy increase for alternative fueled vehicles.
Sec. 774. Study of feasibility and effects of reducing use of fuel for automobiles.

TITLE VIII—HYDROGEN

Sec. 801. Definitions.
Sec. 802. Plan.
Sec. 803. Programs.
Sec. 804. Interagency task force.
Sec. 805. Advisory Committee.
Sec. 806. External review.
Sec. 807. Miscellaneous provisions.
Sec. 808. Savings clause.
Sec. 809. Authorization of appropriations.

TITLE IX—RESEARCH AND DEVELOPMENT

Sec. 901. Goals.
Sec. 902. Definitions.

Subtitle A—Energy Efficiency

Sec. 904. Energy efficiency.
Sec. 905. Next generation lighting initiative.
Sec. 906. National building performance initiative.
Sec. 907. Secondary electric vehicle battery use program.
Sec. 908. Energy efficiency science initiative.
Sec. 909. Electric motor control technology.
Sec. 910. Advanced energy technology transfer centers.

Subtitle B—Distributed Energy and Electric Energy Systems

Sec. 911. Distributed energy and electric energy systems.
Sec. 912. Hybrid distributed power systems.
Sec. 913. High power density industry program.
Sec. 914. Micro-cogeneration energy technology.
Sec. 915. Distributed energy technology demonstration program.
Sec. 916. Reciprocating power.

Subtitle C—Renewable Energy

Sec. 918. Renewable energy.
Sec. 919. Bioenergy programs.
Sec. 920. Concentrating solar power research and development Program.
Sec. 921. Miscellaneous projects.
Sec. 922. Renewable energy in public buildings.
Sec. 923. Study of marine renewable energy options.

Subtitle D—Nuclear Energy

Sec. 924. Nuclear energy.
Sec. 925. Nuclear energy research and development programs.
Sec. 926. Advanced fuel cycle Initiative.
Sec. 927. University nuclear science and engineering support.
Sec. 928. Security of reactor designs.
Sec. 929. Alternatives to industrial radioactive sources.
Sec. 930. Geological isolation of spent fuel.

Subtitle E—Fossil Energy

PART I—RESEARCH PROGRAMS

Sec. 931. Fossil energy.
Sec. 932. Oil and gas research programs.
Sec. 933. Technology transfer.
Sec. 934. Research and development for coal mining technologies.
Sec. 935. Coal and related technologies Program.
Sec. 936. Complex Well Technology Testing Facility.

Sec. 937. Fischer-Tropsch diesel fuel loan guarantee Program.

PART II—ULTRA-DEEPWATER AND UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES

Sec. 941. Program authority.
Sec. 942. Ultra-deepwater Program.
Sec. 943. Unconventional natural gas and other petroleum resources Program.
Sec. 944. Additional requirements for awards.
Sec. 945. Advisory committees.
Sec. 946. Limits on participation.
Sec. 947. Sunset.
Sec. 948. Definitions.
Sec. 949. Funding.

Subtitle F—Science

Sec. 951. Science.
Sec. 952. United States participation in ITER.
Sec. 953. Plan for Fusion Energy Sciences Program.
Sec. 954. Spallation Neutron Source.
Sec. 955. Support for science and energy facilities and infrastructure.
Sec. 956. Catalysis Research and development Program.
Sec. 957. Nanoscale Science and Engineering Research, development, demonstration, and commercial application.
Sec. 958. Advanced scientific computing for energy missions.
Sec. 959. Genomes to Life Program.
Sec. 960. Fission and fusion energy materials research Program.
Sec. 961. Energy-Water Supply Program.
Sec. 962. Nitrogen fixation.

Subtitle G—Energy and Environment

Sec. 964. United States-Mexico energy Technology cooperation.
Sec. 965. Western Hemisphere energy cooperation.
Sec. 966. Waste reduction and use of alternatives.
Sec. 967. Report on fuel cell test Center.
Sec. 968. Arctic Engineering Research Center.
Sec. 969. Barrow Geophysical Research Facility.
Sec. 970. Western Michigan demonstration project.

Subtitle H—Management

Sec. 971. Availability of funds.
Sec. 972. Cost sharing.
Sec. 973. Merit review of proposals.
Sec. 974. External technical review of departmental programs.
Sec. 975. Improved coordination of Technology transfer activities.
Sec. 976. Federal laboratory educational partners.
Sec. 977. Interagency cooperation.
Sec. 978. Technology Infrastructure Program.
Sec. 979. Reprogramming.
Sec. 980. Construction with other laws.
Sec. 981. Report on research and development Program evaluation methodologies.
Sec. 982. Department of Energy Science and Technology Scholarship Program.
Sec. 983. Report on equal employment opportunity practices.
Sec. 984. Small business advocacy and assistance.
Sec. 985. Report on mobility of scientific and technical personnel.
Sec. 986. National Academy of Sciences report.
Sec. 987. Outreach.
Sec. 988. Competitive award of management contracts.
Sec. 989. Educational programs in science and mathematics.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

Sec. 1001. Additional Assistant Secretary position.
Sec. 1002. Other transactions authority.

TITLE XI—PERSONNEL AND TRAINING

Sec. 1101. Training guidelines for electric energy industry personnel.
Sec. 1102. Improved access to energy-related scientific and technical careers.
Sec. 1103. National Power Plant Operations Technology and Education Center.
Sec. 1104. International energy training.

TITLE XII—ELECTRICITY

Sec. 1201. Short title.

Subtitle A—Reliability Standards

Sec. 1211. Electric reliability standards.

Subtitle B—Transmission Infrastructure Modernization

Sec. 1221. Siting of interstate electric transmission facilities.
Sec. 1222. Third-party finance.
Sec. 1223. Transmission system monitoring.
Sec. 1224. Advanced transmission technologies.
Sec. 1225. Electric transmission and distribution programs.
Sec. 1226. Advanced Power System Technology Incentive Program.
Sec. 1227. Office of Electric Transmission and Distribution.

Subtitle C—Transmission Operation Improvements

Sec. 1231. Open nondiscriminatory access.
Sec. 1232. Sense of Congress on Regional Transmission Organizations.
Sec. 1233. Regional Transmission Organization applications progress report.
Sec. 1234. Federal utility participation in Regional Transmission Organizations.
Sec. 1235. Standard market design.
Sec. 1236. Native load service obligation.
Sec. 1237. Study on the benefits of economic dispatch.

Subtitle D—Transmission Rate Reform

Sec. 1241. Transmission infrastructure investment.
Sec. 1242. Voluntary transmission pricing plans.

Subtitle E—Amendments to PURPA

Sec. 1251. Net metering and additional standards.
Sec. 1252. Smart metering.
Sec. 1253. Cogeneration and small power production purchase and sale requirements.

Subtitle F—Repeal of PUHCA

Sec. 1261. Short title.
Sec. 1262. Definitions.
Sec. 1263. Repeal of the Public Utility Holding Company Act of 1935.
Sec. 1264. Federal access to books and records.
Sec. 1265. State access to books and records.
Sec. 1266. Exemption authority.
Sec. 1267. Affiliate transactions.
Sec. 1268. Applicability.
Sec. 1269. Effect on other regulations.
Sec. 1270. Enforcement.
Sec. 1271. Savings provisions.
Sec. 1272. Implementation.
Sec. 1273. Transfer of resources.
Sec. 1274. Effective date.
Sec. 1275. Service allocation.
Sec. 1276. Authorization of appropriations.
Sec. 1277. Conforming amendments to the Federal Power Act.

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

Sec. 1281. Market transparency rules.
Sec. 1282. Market manipulation.
Sec. 1283. Enforcement.
Sec. 1284. Refund effective date.
Sec. 1285. Refund authority.
Sec. 1286. Sanctity of contract.
Sec. 1287. Consumer privacy and unfair trade practices.

Subtitle H—Merger Reform

Sec. 1291. Merger review reform and accountability.
Sec. 1292. Electric utility mergers.

Subtitle I—Definitions

Sec. 1295. Definitions.

Subtitle J—Technical and Conforming Amendments

Sec. 1297. Conforming amendments.

TITLE XIII—ENERGY TAX INCENTIVES

Sec. 1300. Short title; amendment of 1986 Code.

Subtitle A—Conservation

PART I—RESIDENTIAL AND BUSINESS PROPERTY

Sec. 1301. Credit for residential energy efficient property.
Sec. 1302. Extension and expansion of credit for electricity produced from certain renewable resources.
Sec. 1303. Credit for business installation of qualified fuel cells.
Sec. 1304. Credit for energy efficiency improvements to existing homes.
Sec. 1305. Credit for construction of new energy efficient homes.
Sec. 1306. Energy credit for combined heat and power system property.
Sec. 1307. Credit for energy efficient appliances.
Sec. 1308. Energy efficient commercial buildings deduction.
Sec. 1309. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 1310. Credit for production from advanced nuclear power facilities.

PART II—FUELS AND ALTERNATIVE MOTOR VEHICLES

Sec. 1311. Repeal of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general Fund.
Sec. 1312. Reduced motor fuel excise tax on certain mixtures of diesel fuel.
Sec. 1313. Small ethanol producer credit.
Sec. 1314. Incentives for biodiesel.
Sec. 1315. Alcohol fuel and biodiesel mixtures excise tax credit.
Sec. 1316. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.
Sec. 1317. Repeal of phaseouts for qualified electric vehicle credit and deduction for clean fuel-vehicles.
Sec. 1318. Alternative motor vehicle credit.
Sec. 1319. Modifications of deduction for certain refueling property.

Subtitle B—Reliability

Sec. 1321. Natural gas gathering lines treated as 7–YEAR property.
Sec. 1322. Natural gas distribution lines treated as 15-year property.
Sec. 1323. Electric transmission property treated as 15-year property.
Sec. 1324. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
Sec. 1325. Credit for production of low sulfur diesel fuel.
Sec. 1326. Determination of small refiner exception to oil depletion deduction.
Sec. 1327. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.

Sec. 1328. Modifications to special rules for nuclear decommissioning costs.
Sec. 1329. Treatment of certain income of cooperatives.
Sec. 1330. Arbitrage rules not to apply to prepayments for natural gas.

Subtitle C—Production

PART I—OIL AND GAS PROVISIONS

Sec. 1341. Oil and gas from marginal wells.
Sec. 1342. Temporary suspension of limitation based on 65 percent of taxable income and extension of suspension of taxable income limit with respect to marginal production.
Sec. 1343. Amortization of delay rental payments.
Sec. 1344. Amortization of geological and geophysical expenditures.
Sec. 1345. Extension and modification of credit for producing fuel from a nonconventional source.

PART II—ALTERNATIVE MINIMUM TAX PROVISIONS

Sec. 1346. New nonrefundable personal credits allowed against regular and minimum taxes.
Sec. 1347. Business related energy credits allowed against regular and minimum tax.
Sec. 1348. Temporary repeal of alternative minimum tax preference for intangible drilling costs.

PART III—CLEAN COAL INCENTIVES

Sec. 1351. Credit for clean coal technology units.
Sec. 1352. Expansion of amortization for certain pollution control facilities.
Sec. 1353. 5-year recovery period for eligible integrated gasification combined cycle technology unit eligible for credit.

PART IV—HIGH VOLUME NATURAL GAS PROVISIONS

Sec. 1355. High volume natural gas pipe treated as 7-year property.
Sec. 1356. Extension of enhanced oil recovery credit to high volume natural gas facilities.

Subtitle D—Additional Provisions

Sec. 1361. Extension of accelerated depreciation benefit for energy-related businesses on indian reservations.
Sec. 1362. Payment of dividends on stock of cooperatives without reducing patronage dividends.
Sec. 1363. Distributions from publicly traded partnerships treated as qualifying income of regulated investment companies.
Sec. 1364. Ceiling fans.
Sec. 1365. Certain steam generators, and certain reactor vessel heads, used in nuclear facilities.
Sec. 1366. Brownfields demonstration program for qualified green building and sustainable design projects.

TITLE XIV—MISCELLANEOUS

Subtitle A—Rural and Remote Electricity Construction

Sec. 1401. Denali Commission programs.
Sec. 1402. Rural and remote community assistance.

Subtitle B—Coastal Programs

Sec. 1411. Royalty payments under leases under the Outer Continental Shelf Lands Act.
Sec. 1412. Domestic offshore energy reinvestment.

Subtitle C—Reforms to the Board of Directors of the Tennessee Valley Authority

Sec. 1431. Change in composition, operation, and duties of the Board of Directors of the Tennessee Valley Authority.
Sec. 1432. Change in manner of appointment of staff.
Sec. 1433. Conforming amendments.
Sec. 1434. Appointments; effective date; transition.

Subtitle D—Other Provisions

Sec. 1441. Continuation of transmission security order.
Sec. 1442. Review of agency determinations.
Sec. 1443. Attainment dates for downwind ozone nonattainment areas.
Sec. 1444. Energy production incentives.
Sec. 1445. Use of granular mine tailings.

TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—General Provisions

Sec. 1501. Renewable content of motor vehicle fuel.
Sec. 1502. Fuels safe harbor.
Sec. 1503. Findings and MTBE transition assistance.
Sec. 1504. Use of MTBE.
Sec. 1505. National Academy of Sciences review and presidential determination.
Sec. 1506. Elimination of oxygen content requirement for reformulated gasoline.
Sec. 1507. Analyses of motor vehicle fuel changes.
Sec. 1508. Data collection.
Sec. 1509. Reducing the proliferation of State fuel controls.
Sec. 1510. Fuel system requirements harmonization study.
Sec. 1511. Commercial byproducts from municipal solid waste and cellulosic biomass loan guarantee program.
Sec. 1512. Resource Center.
Sec. 1513. Cellulosic biomass and waste-derived ethanol conversion assistance.
Sec. 1514. Blending of compliant reformulated gasolines.

Subtitle B—Underground Storage Tank Compliance

Sec. 1521. Short title.
Sec. 1522. Leaking underground storage tanks.
Sec. 1523. Inspection of underground storage tanks.
Sec. 1524. Operator training.
Sec. 1525. Remediation from oxygenated fuel additives.
Sec. 1526. Release prevention, compliance, and enforcement.
Sec. 1527. Delivery prohibition.
Sec. 1528. Federal facilities.
Sec. 1529. Tanks on Tribal lands.
Sec. 1530. Future release containment technology.
Sec. 1531. Authorization of appropriations.
Sec. 1532. Conforming amendments.
Sec. 1533. Technical amendments.

TITLE XVI—STUDIES

Sec. 1601. Study on inventory of petroleum and natural gas storage.
Sec. 1602. Natural gas supply shortage report.
Sec. 1603. Split-estate Federal oil and gas leasing and development practices.
Sec. 1604. Resolution of Federal resource development conflicts in the Powder River Basin.
Sec. 1605. Study of energy efficiency standards.
Sec. 1606. Telecommuting study.
Sec. 1607. Liheap report.
Sec. 1608. Oil bypass filtration technology.
Sec. 1609. Total integrated thermal systems.
Sec. 1610. University collaboration.
Sec. 1611. Reliability and consumer protection assessment.

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 101. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) is amended by adding at the end the following:

"SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.

''(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 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 of the Capitol 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 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. 552. Energy and water savings measures in congressional buildings.''.

(c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (2 U.S.C. 1815), is repealed.

(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 OF APPROPRIATIONS.—There are authorized to be appropriated to

the Architect of the Capitol to carry out subsection (d), $2,000,000 for each of fiscal years 2004 through 2008.

SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—

(1) AMENDMENT.—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 2001, 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.''.

(2) REPORTING BASELINE.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)), as amended by this subsection, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(b) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

''(3) Not later than December 31, 2012, 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 2023.''.

(c) 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.''.

(d) REVIEW BY SECRETARY.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking ''impracticability standards'' and inserting ''standards for exclusion'';

(2) by striking ''a finding of impracticability'' and inserting ''the exclusion''; and

(3) by striking ''energy consumption requirements'' and inserting ''requirements of subsections (a) and (b)(1)''.

(e) CRITERIA.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the 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).''.

(f) RETENTION OF ENERGY AND WATER 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 AND WATER SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings or water savings. Except as otherwise provided by law, such funds may be used only for energy efficiency, water conservation, or unconventional and renewable energy resources projects.''.

(g) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting ''THE PRESIDENT AND'' before ''CONGRESS''; and

(2) by inserting ''President and'' before ''Congress''.

(h) 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. 103. 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, energy efficiency advocacy organizations, 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 1 or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

''(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

''(3) PLAN.—Not later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (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. 104. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), as amended by section 101, is amended by adding at the end the following:

''SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) ENERGY STAR PRODUCT.—The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

''(2) ENERGY STAR PROGRAM.—The term 'Energy Star program' means the program established by section 324A of the Energy Policy and Conservation Act.

''(3) EXECUTIVE AGENCY.—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) FEMP DESIGNATED PRODUCT.—The term 'FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

''(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

''(1) REQUIREMENT.—To meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall, except as provided in paragraph (2), procure—

''(A) an Energy Star product; or

''(B) a FEMP designated product.

''(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the 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) SPECIFIC PRODUCTS.—(1) 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 not later than 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

''(2) All Federal agencies are encouraged to take actions to maximize the efficiency of air conditioning and refrigeration equipment, including appropriate cleaning and maintenance, including the use of any system treatment or additive that will reduce the electricity consumed by air conditioning and refrigeration equipment. Any such treatment or additive must be—

''(A) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on air conditioning performance (including cooling capacity) or equipment useful life;

''(B) determined by the Administrator of the Environmental Protection Agency to be environmentally safe; and

''(C) shown to increase seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) when tested by the National Institute of Standards and Technology according to Department of Energy test procedures without causing any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

Results of testing described in subparagraph (C) shall be published in the Federal Register for public review and comment. For purposes of this section, a hardware device or primary refrigerant shall not be considered an additive.

''(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 of the National Energy Conservation Policy Act is further amended by inserting after the item relating to section 552 the following new item:

''Sec. 553. Federal procurement of energy efficient products.''.

SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) PERMANENT EXTENSION.—Effective September 30, 2003, section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(b) PAYMENT OF COSTS.—Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a) is amended by inserting '', water, or wastewater treatment'' after ''payment of energy''.

(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 reduction in the cost of energy, water, or wastewater treatment, 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—

''(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(C) the increased efficient use of existing water sources in either interior or exterior applications.''.

(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 that provides for 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 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building (as such term is defined in section 3301 of title 40, United States Code), be in compliance with the prospectus requirements and procedures of section 3307 of title 40, United States Code.''.

(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; or

''(B) a water conservation measure that improves the efficiency of water use, 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) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including the identification of additional qualified contractors, and energy efficiency services covered. The Secretary shall report these findings to Congress 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.

(g) EXTENSION OF AUTHORITY.—Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2003, and before the date of enactment of this Act, shall be deemed to have been entered into pursuant to such section 801 as amended by subsection (a) of this section.

SEC. 106. ENERGY SAVINGS PERFORMANCE CONTRACTS PILOT PROGRAM FOR NONBUILDING APPLICATIONS.

(a) IN GENERAL.—The Secretary of Defense and the heads of other interested Federal agencies are authorized to enter into up to 10 energy savings performance contracts using procedures, established under subsection (b), based on the procedures 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 nonbuilding applications. The payments to be made by the Federal Government under such contracts shall not exceed a total of $200,000,000 for all such contracts combined.

(b) PROCEDURES.—The Secretary of Energy, in consultation with the Administrator of General Services and the Secretary of Defense, shall establish procedures based on the procedures under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.), for implementing this section.

(c) DEFINITIONS.—In this section:

(1) NONBUILDING APPLICATION.—The term ''nonbuilding application'' means—

(A) any class of vehicles, devices, or equipment that are transportable under their own power by land, sea, or air that consume energy from any fuel source for the purpose of such transportability, or to maintain a controlled environment within such vehicle, device, or equipment; or

(B) any Federally owned equipment used to generate electricity or transport water.

(2) SECONDARY SAVINGS.—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.

(d) REPORT.—Not later than 3 years after the date of enactment of this section, the Secretary of Energy shall report to 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.).

SEC. 107. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) VOLUNTARY AGREEMENTS.—The Secretary of Energy is authorized to enter into

voluntary agreements with 1 or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities by a significant amount relative to improvements in each sector in recent years.

(b) RECOGNITION.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and other appropriate Federal agencies, shall recognize and publicize the achievements of participants in voluntary agreements under this section.

(c) DEFINITION.—In this section, the term ''energy intensity'' means the primary energy consumed per unit of physical output in an industrial process.

SEC. 108. ADVANCED BUILDING EFFICIENCY TESTBED.

(a) ESTABLISHMENT.—The Secretary of Energy, in consultation with the Administrator of General Services, shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate efficiency concepts for government and industry buildings, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health (including by improving indoor air quality) as well as flexibility and technological change to improve environmental sustainability. Such program shall complement and not duplicate existing national programs.

(b) PARTICIPANTS.—The program established under subsection (a) shall be led by a university with the ability to combine the expertise from numerous academic fields including, at a minimum, intelligent workplaces and advanced building systems and engineering, electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $6,000,000 for each of the fiscal years 2004 through 2006, to remain available until expended. For any fiscal year in which funds are expended under this section, the Secretary shall provide ⅓ of the total amount to the lead university described in subsection (b), and provide the remaining ⅔ to the other participants referred to in subsection (b) on an equal basis.

SEC. 109. 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 2003 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—

''(i) if life-cycle 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 version current as of the date of enactment of this paragraph of the ASHRAE Standard or 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; and

''(ii) where water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent they are life-cycle cost effective.

''(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, 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. 110. 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:

''INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

''SEC. 6005. (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 greater 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 Congress 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, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act 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.''.

Subtitle B—Energy Assistance and State Programs

SEC. 121. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking ''and $2,000,000,000 for each of fiscal years 2002 through 2004'' and inserting ''$2,000,000,000 for fiscal years 2002 and 2003, and $3,400,000,000 for each of fiscal years 2004 through 2006''.

SEC. 122. WEATHERIZATION ASSISTANCE.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006''.

SEC. 123. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

''(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

''STATE ENERGY EFFICIENCY GOALS

''SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2003 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$100,000,000 for each of the fiscal years 2004 and 2005 and $125,000,000 for fiscal year 2006''.

SEC. 124. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term ''eligible State'' means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term ''Energy Star program'' means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(5) STATE ENERGY OFFICE.—The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(6) STATE PROGRAM.—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) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under 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) MINIMUM ALLOCATIONS.—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 the Secretary to carry out this section $50,000,000 for each of the fiscal years 2004 through 2008.

SEC. 125. 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 the most recent version of the 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 $30,000,000 for each of fiscal years 2004 through 2008. Not more than 10 percent of appropriated funds shall be used for administration.

SEC. 126. 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.), that 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 each of fiscal years 2004 through 2006.

Subtitle C—Energy Efficient Products

SEC. 131. 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 2 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 comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or effective dates for any of the foregoing);

''(5) upon adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria along with an explanation of such changes and, where appropriate, responses to comments submitted by interested parties; and

''(6) provide appropriate lead time (which shall be 9 months, unless the Agency or Department determines otherwise) prior to the effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.''.

(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. 132. 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, not later than 180 days after 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 businesses 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 of the Small Business Administration 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.''.

SEC. 133. 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 paragraph (30)(S), by striking the period and adding at the end the following: ''but does not include any lamp specifically designed to be used for special purpose applications and that is unlikely to be used in general purpose applications such as those described in subparagraph (D), and also does not include any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is designed for special applications and is unlikely to be used in general purpose applications.''; and

(2) by adding at the end the following:

''(32) The term 'battery charger' means a device that charges batteries for consumer products and includes battery chargers embedded in other consumer products.

''(33) The term 'commercial refrigerators, freezers, and refrigerator-freezers' means refrigerators, freezers, or refrigerator-freezers that—

''(A) are not consumer products regulated under this Act; and

''(B) incorporate 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 '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 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—

''(I) the transformer is designed for a special application;

''(II) the transformer is unlikely to be used in general purpose applications; and

''(III) the application of standards to the transformer would not result in significant energy savings.

''(37) The term 'low-voltage dry-type distribution transformer' means a distribution transformer that—

''(A) has an input voltage of 600 volts or less;

''(B) is air-cooled; and

''(C) does not use oil as a coolant.

''(38) The term 'standby mode' means the lowest power consumption mode that—

''(A) cannot be switched off or influenced by the user; and

''(B) may persist for an indefinite time when an appliance is connected to the main electricity supply and used in accordance with the manufacturer's instructions,

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 '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.

''(41) The term 'transformer' means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

''(42) 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.''.

(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 distribution transformers and low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). The Secretary may review and revise this test procedure. For purposes of section 346(a), this test procedure shall be deemed to be testing requirements prescribed by the Secretary under section 346(a)(1) for distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

''(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, not

later than 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) BATTERY CHARGER AND EXTERNAL POWER SUPPLY 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 and test procedures for the power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing definitions and test procedures used for measuring energy consumption in standby mode and other modes 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 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 issued 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 energy use that—

''(i) meets the criteria and procedures 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) 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 that 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, standby mode power consumption compared to overall product energy consumption.

''(3) RULEMAKING.—The Secretary shall not propose a standard under this section unless the Secretary has issued applicable test procedures for each product pursuant to section 323.

''(4) EFFECTIVE DATE.—Any standard issued under this subsection shall be applicable to products manufactured or imported 3 years after the date of issuance.

''(5) 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, that are designed to reduce standby mode energy use.

''(v) SUSPENDED CEILING FANS, VENDING MACHINES, AND COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—The Secretary shall not later than 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 (o) and (p). 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) LOW VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS.—The efficiency of low voltage dry-type distribution 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 subsection, 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 3 years after the date of enactment of this subsection 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 Compact Fluorescent Lamps, 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 Compact Fluorescent Lamps. The Secretary may, by rule, revise these requirements or establish other requirements considering energy savings, cost effectiveness, and consumer satisfaction.

''(cc) EFFECTIVE DATE.—Section 327 shall apply—

''(1) to products for which standards are to be established under subsections (u) and (v) 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 established under subsection (u) or (v) for that product takes effect; and

''(2) to products for which standards are established under subsections (w) through (bb) on the date of enactment of those subsections, except that any State or local standards prescribed or enacted prior to the date of enactment of those subsections shall not be preempted until the standards established under subsections (w) through (bb) take effect.''.

(d) RESIDENTIAL FURNACE FANS.—Section 325(f)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)(3)) is amended by adding the following new subparagraph at the end:

''(D) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electricity used for purposes of circulating air through duct work.''.

SEC. 134. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Section 324(a)(2) 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 not later than 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 paragraph.''.

Subtitle D—Public Housing

SEC. 141. 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. 142. 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. 143. 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 paragraph beginning after subparagraph (B)(ii)(IV) (relating to solar energy systems), 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 last 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)(IV) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)(IV)) is amended—

(1) by striking ''with respect to rehabilitation projects involving not more than five family units,''; and

(2) 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.—Section 231(c)(2)(C) of the National Housing Act (12 U.S.C. 1715v(c)(2)(C)) 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. 144. 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 generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.''.

SEC. 145. 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 Multifamily 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. 146. 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. 147. 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 Conservation Policy Act (as amended by this title), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 148. 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, 2004'';

(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 ''2003 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''within 1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''by September 30, 2004''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2003 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''MODEL ENERGY CODE'' and inserting ''THE INTERNATIONAL ENERGY CONSERVATION CODE''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2003 International Energy Conservation Code''.

SEC. 149. 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 1 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 2 years thereafter on progress in implementing the strategy.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 6 months after the date of enactment of this Act, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (tidal, wave, current, and thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; 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. 202. 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 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 or 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. 203. 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.

(3) Not less than 7.5 percent in fiscal year 2011 and each fiscal year thereafter.

(b) DEFINITIONS.—In this section:

(1) BIOMASS.—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;

(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) RENEWABLE ENERGY.—The term ''renewable energy'' means electric energy generated from solar, wind, biomass, landfill gas, 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 Congress on the progress of the Federal Government in meeting the goals established by this section.

SEC. 204. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled ''An Act to authorize appropriations for certain insular areas of the United States, and for other purposes'', approved December 24, 1980 (48 U.S.C. 1492), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

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

''(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

''(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, opportunities for energy conservation and increased energy efficiency, and indigenous sources in regard to the insular areas.'';

(3) by amending subsection (e) to read as follows:

''(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the head of government of each insular area, shall update the plans required under subsection (c) by—

''(A) updating the contents required by subsection (c);

''(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2010, increasing energy conservation and energy efficiency, and maximizing, to the extent feasible, use of indigenous energy sources; and

''(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

''(2) Not later than December 31, 2005, the Secretary of the Interior shall submit to Congress the updated plans for each insular area required by this subsection.''; and

(4) by amending subsection (g)(4) to read as follows:

''(4) POWER LINE GRANTS FOR INSULAR AREAS.—

''(A) IN GENERAL.—The Secretary of the Interior is authorized to make grants to governments of insular areas of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such insular areas from damage caused by hurricanes and typhoons.

''(B) ELIGIBLE PROJECTS.—The Secretary may award grants under subparagraph (A) only to governments of insular areas of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

''(i) The project is designed to protect electric power transmission and distribution lines located in 1 or more of the insular areas of the United States from damage caused by hurricanes and typhoons.

''(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

''(iii) The project addresses 1 or more problems that have been repetitive or that pose a significant risk to public health and safety.

''(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

''(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

''(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

''(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

''(C) PRIORITY.—When making grants under this paragraph, the Secretary shall give priority to grants for projects which are likely to—

''(i) have the greatest impact on reducing future disaster losses; and

''(ii) best conform with plans that have been approved by the Federal Government or the government of the insular area where the project is to be carried out for development or hazard mitigation for that insular area.

''(D) MATCHING REQUIREMENT.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

''(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

''(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $5,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.''.

SEC. 205. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS.

(a) IN GENERAL.—Subchapter VI of chapter 31 of title 40, United States Code, is amended by adding at the end the following:

"§ 3177. Use of photovoltaic energy in public buildings

''(a) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—

''(1) IN GENERAL.—The Administrator of General Services may establish a photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings.

''(2) PURPOSES.—The purposes of the program shall be to accomplish the following:

''(A) To accelerate the growth of a commercially viable photovoltaic industry to make this energy system available to the general public as an option which can reduce the national consumption of fossil fuel.

''(B) To reduce the fossil fuel consumption and costs of the Federal Government.

''(C) To attain the goal of installing solar energy systems in 20,000 Federal buildings by 2010, as contained in the Federal Government's Million Solar Roof Initiative of 1997.

''(D) To stimulate the general use within the Federal Government of life-cycle costing and innovative procurement methods.

''(E) To develop program performance data to support policy decisions on future incentive programs with respect to energy.

''(3) ACQUISITION OF PHOTOVOLTAIC SOLAR ELECTRIC SYSTEMS.—

''(A) IN GENERAL.—The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability for use in public buildings.

''(B) ACQUISITION LEVELS.—The acquisition of photovoltaic electric systems shall be at a level substantial enough to allow use of low-cost production techniques with at least 150 megawatts (peak) cumulative acquired during the 5 years of the program.

''(4) ADMINISTRATION.—The Administrator shall administer the program and shall—

''(A) issue such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic solar electric systems installed pursuant to this subsection;

''(B) develop innovative procurement strategies for the acquisition of such systems; and

''(C) transmit to Congress an annual report on the results of the program.

''(b) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Energy, shall establish a photovoltaic solar energy systems evaluation program to evaluate such photovoltaic solar energy systems as are required in public buildings.

''(2) PROGRAM REQUIREMENT.—In evaluating photovoltaic solar energy systems under the program, the Administrator shall ensure that such systems reflect the most advanced technology.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—There are authorized to be appropriated to carry out subsection (a) $50,000,000 for each of fiscal years 2004 through 2008. Such sums shall remain available until expended.

''(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There are authorized to be appropriated to carry out subsection (b) $10,000,000 for each of fiscal years 2004 through 2008. Such sums shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The section analysis for such chapter is amended by inserting after the item relating to section 3176 the following:

''3177. Use of photovoltaic energy in public buildings.''.

SEC. 206. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, PETROLEUM-BASED PRODUCT SUBSTITUTES, AND OTHER COMMERCIAL PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest fuel loads continues to increase as a result of disease, insect infestations, and drought, further raising the risk of fire each year.

(2) In addition, more than 70,000,000 acres across all land ownerships are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease result in increased fire risk, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and decreased timber values.

(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and protecting early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest land, woodland, and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest health by creating a mosaic of species-mix and age distribution. Such prevention treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, disease, and fire.

(4) The byproducts of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest lands, woodlands and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. There are currently few markets for the extraordinary volumes of byproducts being generated as a result of the necessary large-scale preventive treatment activities.

(5) The United States should—

(A) promote economic and entrepreneurial opportunities in using byproducts removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for byproducts of preventive treatment activities.

(b) DEFINITIONS.—In this section:

(1) BIOMASS.—The term ''biomass'' means trees and woody plants, including limbs, tops, needles, and other woody parts, and byproducts of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels; or

(B) to reduce the risk of or to contain disease or insect infestation.

(2) INDIAN TRIBE.—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)).

(3) PERSON.—The term ''person'' includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(4) PREFERRED COMMUNITY.—The term ''preferred community'' means—

(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(B) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(5) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture with respect to National Forest System lands; and

(B) the Secretary of the Interior with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands.

(c) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products to offset the costs incurred to purchase biomass for use by such facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(d) IMPROVED BIOMASS USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy, opportunities for the creation or expansion of small businesses and micro-businesses, and the potential for new job creation.

(3) GRANT AMOUNT.—A grant under this subsection may not exceed $500,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2004 through 2014 to carry out this section.

(f) REPORT.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and the use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 207. BIOBASED PRODUCTS.

Section 9002(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(c)(1)) is amended by inserting ''or such items that comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1)'' after ''practicable''.

Subtitle B—Geothermal Energy

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''John Rishel Geothermal Steam Act Amendments of 2004''.

SEC. 212. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

''SEC. 4. LEASING PROCEDURES.

''(a) NOMINATIONS.—The Secretary shall accept nominations of lands to be leased at any time from qualified companies and individuals 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 which has nominations pending under subsection (a) if 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 a competitive lease sale.

''(d) LEASES SOLD AS A BLOCK.—If information is available to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for such a resource may be offered for bidding as a block in the competitive lease sale.

''(e) PENDING LEASE APPLICATIONS ON APRIL 1, 2003.—It shall be a priority for the Secretary of the Interior, and for the Secretary of Agriculture with respect to National Forest Systems lands, to ensure timely completion of administrative actions necessary to process applications for geothermal leasing pending on April 1, 2003. Such an application, and any lease issued pursuant to such an application—

''(1) except as provided in paragraph (2), shall be subject to this section as in effect on April 1, 2003; or

''(2) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.''.

SEC. 213. DIRECT USE.

(a) FEES FOR DIRECT USE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B);

(2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);

(3) by inserting ''(a) IN GENERAL.—'' after ''SEC. 5.''; and

(4) by adding at the end the following:

''(b) DIRECT USE.—Notwithstanding subsection (a)(1), with respect to the direct use of geothermal resources for purposes other than the commercial generation of electricity, the Secretary of the Interior shall establish a schedule of fees and collect fees pursuant to such a schedule in lieu of royalties based upon the total amount of the geothermal resources used. The schedule of fees shall ensure that there is a fair return to the public for the use of a geothermal resource based upon comparable fees charged for direct use of geothermal resources by States or private persons. For direct use by a State or local government for public purposes there shall be no royalty and the fee charged shall be nominal. Leases in existence on the date of enactment of the Energy Policy Act of 2003 shall be modified in order to reflect the provisions of this subsection.''.

(b) LEASING FOR DIRECT USE.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is further amended by adding at the end the following:

''(f) LEASING FOR DIRECT USE OF GEOTHERMAL RESOURCES.—Lands leased under this Act exclusively for direct use of geothermal resources shall be leased to any qualified applicant who first applies for such a lease under regulations issued by the Secretary, if—

''(1) the Secretary publishes a notice of the lands proposed for leasing 60 days before the date of the issuance of the lease; and

''(2) the Secretary does not receive in the 60-day period beginning on the date of such publication any nomination to include the lands concerned in the next competitive lease sale.

''(g) AREA SUBJECT TO LEASE FOR DIRECT USE.—A geothermal lease for the direct use of geothermal resources shall embrace not more than the amount of acreage determined by the Secretary to be reasonably necessary for such proposed utilization.''.

(c) EXISTING LEASES WITH A DIRECT USE FACILITY.—

(1) APPLICATION TO CONVERT.—Any lessee under a lease under the Geothermal Steam Act of 1970 that was issued before the date of the enactment of this Act may apply to the Secretary of the Interior, by not later than 18 months after the date of the enactment of this Act, to convert such lease to a lease for direct utilization of geothermal resources in accordance with the amendments made by this section.

(2) CONVERSION.—The Secretary shall approve such an application and convert such a lease to a lease in accordance with the amendments by not later than 180 days after receipt of such application, unless the Secretary determines that the applicant is not a qualified applicant with respect to the lease.

(3) APPLICATION OF NEW LEASE TERMS.—The amendment made by subsection (a)(4) shall apply with respect to payments under a lease converted under this subsection that are due and owing to the United States on or after July 16, 2003.

SEC. 214. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.

(a) ROYALTY.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

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

''(1) a royalty on electricity produced using geothermal steam and associated geothermal resources, other than direct use of geothermal resources, that shall be—

''(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such resources during the first 10 years of production under the lease; and

''(B) not less than 2 and not more than 5 percent of the gross proceeds from the sale of electricity produced from such resources during each year after such 10-year period;''; and

(2) by adding at the end the following:

''(c) FINAL REGULATION ESTABLISHING ROYALTY RATES.—In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek—

''(1) to provide lessees a simplified administrative system;

''(2) to encourage new development; and

''(3) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection.

''(d) CREDITS FOR IN-KIND PAYMENTS OF ELECTRICITY.—The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (30 U.S.C. 191), or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), if—

''(1) the Secretary has approved in advance the contract between the lessee and the State or county government for such in-kind payments;

''(2) the contract establishes a specific methodology to determine the value of such credits; and

''(3) the maximum credit will be equal to the royalty value owed to the State or county that is a party to the contract and the electricity received will serve as the royalty payment from the Federal Government to that entity.''.

(b) DISPOSAL OF MONEYS FROM SALES, BONUSES, ROYALTIES, AND RENTALS.—Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

''SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

''(a) IN GENERAL.—Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of section 35 of the Mineral Leasing Act (30 U.S.C. 191(b)) and section 5(a)(2) of this Act—

''(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

''(2) 25 percent shall be paid to the County within the boundaries of which the leased lands or geothermal resources are or were located.

''(b) USE OF PAYMENTS.—Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (30 U.S.C. 191).''.

(c) NEAR-TERM PRODUCTION INCENTIVE FOR EXISTING LEASES.—

(1) IN GENERAL.—Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the amount of the royalty otherwise required, on any lease issued before the date of enactment of this Act that does not convert to new royalty terms under subsection (e)—

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of the enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 4-YEAR APPLICATION.—Paragraph (1) applies only to new commercial production of

energy from a facility in the first 4 years of such production.

(d) DEFINITION OF QUALIFIED EXPANSION GEOTHERMAL ENERGY.—In this section, the term ''qualified expansion geothermal energy'' means geothermal energy produced from a generation facility for which—

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of the enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility.

(e) ROYALTY UNDER EXISTING LEASES.—

(1) IN GENERAL.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 before the date of the enactment of this Act may modify the terms of the lease relating to payment of royalties to comply with the amendment made by subsection (a), by applying to the Secretary of the Interior by not later than 18 months after the date of the enactment of this Act.

(2) APPLICATION OF MODIFICATION.—Such modification shall apply to any use of geothermal steam and any associated geothermal resources to which the amendment applies that occurs after the date of that application.

(3) CONSULTATION.—The Secretary—

(A) shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection; and

(B) may establish a gross proceeds percentage within the range specified in the amendment made by subsection (a)(1) and with the concurrence of the lessee and the State.

SEC. 215. 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 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 areas with geothermal potential 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 procession.

(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. 216. REVIEW AND REPORT TO CONGRESS.

The Secretary of the Interior shall promptly review and report to Congress not later than 3 years after the date of the enactment of this Act regarding the status of all withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of Federal lands, specifying for each such area whether the basis for such withdrawal still applies.

SEC. 217. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:

''SEC. 30. REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES.

''(a) IN GENERAL.—The Secretary of the Interior may reimburse a person that is a lessee, operator, operating rights owner, or applicant for any lease under this Act for reasonable amounts paid by the person for preparation for the Secretary by a contractor or other person selected by the Secretary of any project-level analysis, documentation, or related study required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (a) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily;

''(3) the person maintains records of its costs in accordance with regulations issued by the Secretary;

''(4) the reimbursement is in the form of a reduction in the Federal share of the royalty required to be paid for the lease for which the analysis, documentation, or related study is conducted, and is agreed to by the Secretary and the person reimbursed prior to commencing the analysis, documentation, or related study; and

''(5) the agreement required under paragraph (4) contains provisions—

''(A) reducing royalties owed on lease production based on market prices;

''(B) stipulating an automatic termination of the royalty reduction upon recovery of documented costs; and

''(C) providing a process by which the lessee may seek reimbursement for circumstances in which production from the specified lease is not possible.''.

(b) APPLICATION.—The amendment made by this section shall apply with respect to an analysis, documentation, or a related study conducted on or after the date of enactment of this Act for any lease entered into before, on, or after the date of enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendment made by this section by not later than 1 year after the date of enactment of this Act.

SEC. 218. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

The Secretary of Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall update the 1978 Assessment of Geothermal Resources, and submit that updated assessment to Congress—

(1) not later than 3 years after the date of enactment of this Act; and

(2) thereafter as the availability of data and developments in technology warrant.

SEC. 219. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

''SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

''(a) ADOPTION OF UNITS BY LESSEES.—

''(1) IN GENERAL.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not any part of the geothermal field, or like area, is then subject to any Unit Agreement (cooperative plan of development or operation)), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a Unit Agreement for such field, or like area, or any part thereof including direct use resources, if determined and certified by the Secretary to be necessary or advisable in the public interest. A majority interest of owners of any single lease shall have the authority to commit that lease to a Unit Agreement. The Secretary of the Interior may also initiate the formation of a Unit Agreement if in the public interest.

''(2) MODIFICATION OF LEASE REQUIREMENTS BY SECRETARY.—The Secretary may, in the discretion of the Secretary, and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of such leases and make conditions with reference to such leases, with the consent of the lessees, in connection with the creation and operation of any such Unit Agreement as the Secretary may deem necessary or proper to secure the proper protection of the public interest. Leases with unlike lease terms or royalty rates do not need to be modified to be in the same unit.

''(b) REQUIREMENT OF PLANS UNDER NEW LEASES.—The Secretary—

''(1) may provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under such a reasonable Unit Agreement; and

''(2) may prescribe such an Agreement under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

''(c) MODIFICATION OF RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION.—The Secretary may require that any Agreement authorized by this section that applies to lands owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the Agreement to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such an Agreement.

''(d) EXCLUSION FROM DETERMINATION OF HOLDING OR CONTROL.—Any lands that are subject to any Agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under any provision of this Act.

''(e) POOLING OF CERTAIN LANDS.—If separate tracts of lands cannot be independently developed and operated to use geothermal steam and associated geothermal resources pursuant to any section of this Act—

''(1) such lands, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, for purposes of development and operation under a Communitization Agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if such pooling is determined by the Secretary to be in the public interest; and

''(2) operation or production pursuant to such an Agreement shall be treated as operation or production with respect to each tract of land that is subject to the agreement.

''(f) UNIT AGREEMENT REVIEW.—No more than 5 years after approval of any cooperative or Unit Agreement and at least every 5 years thereafter, the Secretary shall review each such Agreement and, after notice and opportunity for comment, eliminate from inclusion in such Agreement any lands that the Secretary determines are not reasonably

necessary for Unit operations under the Agreement. Such elimination shall be based on scientific evidence, and shall occur only if it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any land so eliminated shall be eligible for an extension under subsection (g) of section 6 if it meets the requirements for such an extension.

''(g) DRILLING OR DEVELOPMENT CONTRACTS.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by 1 or more lessees of geothermal leases, with 1 or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served thereby. All leases operated under such approved drilling or development contracts, and interests thereunder, shall be excepted in determining holdings or control under section 7.

''(h) COORDINATION WITH STATE GOVERNMENTS.—The Secretary shall coordinate unitization and pooling activities with the appropriate State agencies and shall ensure that State leases included in any unitization or pooling arrangement are treated equally with Federal leases.''.

SEC. 220. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

''(2) a royalty on any byproduct that is a mineral named in the first section of the Mineral Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of such mineral under a lease under that Act;''.

SEC. 221. REPEAL OF AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.

Section 8 of the Geothermal Steam Act of 1970 (30 U.S.C. 1007) is amended by repealing subsection (b), and by redesignating subsection (c) as subsection (b).

SEC. 222. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

(1) in subsection (a)(2) by inserting ''and'' after the semicolon at the end;

(2) in subsection (a)(3) by striking ''; and'' and inserting a period;

(3) by striking paragraph (4) of subsection (a); and

(4) by adding at the end the following:

''(e) CREDITING OF RENTAL TOWARD ROYALTY.—Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.''.

SEC. 223. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended—

(1) by striking so much as precedes subsection (c), and striking subsections (e), (g), (h), (i), and (j);

(2) by redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i); and

(3) by inserting before subsection (g), as so redesignated, the following:

''SEC. 6. LEASE TERM AND WORK COMMITMENT REQUIREMENTS.

''(a) IN GENERAL.—

''(1) PRIMARY TERM.—A geothermal lease shall be for a primary term of 10 years.

''(2) INITIAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the fifth year of the lease—

''(A) the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year; or

''(B) the lessee paid in accordance with subsection (d) the value of any work that was not completed in accordance with those requirements.

''(3) ADDITIONAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease (after an initial extension under paragraph (2)) for an additional 5 years if, for each year of the initial extension under paragraph (2), the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year.

''(b) REQUIREMENT TO SATISFY ANNUAL WORK COMMITMENT REQUIREMENT.—

''(1) IN GENERAL.—The lessee for a geothermal lease shall, for each year after the fifth year of the lease, satisfy work commitment requirements prescribed by the Secretary that apply to the lease for that year.

''(2) PRESCRIPTION OF WORK COMMITMENT REQUIREMENTS.—The Secretary shall issue regulations prescribing minimum equivalent dollar value work commitment requirements for geothermal leases, that—

''(A) require that a lessee, in each year after the fifth year of the primary term of a geothermal lease, diligently work to achieve commercial production or utilization of steam under the lease;

''(B) require that in each year to which work commitment requirements under the regulations apply, the lessee shall significantly reduce the amount of work that remains to be done to achieve such production or utilization;

''(C) describe specific work that must be completed by a lessee by the end of each year to which the work commitment requirements apply and factors, such as force majeure events, that suspend or modify the work commitment obligation;

''(D) carry forward and apply to work commitment requirements for a year, work completed in any year in the preceding 3-year period that was in excess of the work required to be performed in that preceding year;

''(E) establish transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment of this subsection may be extended for up to 2 years—

''(i) to allow achievement of production under the lease; or

''(ii) to allow the lease to be included in a producing unit; and

''(F) establish an annual payment that, at the option of the lessee, may be exercised in lieu of meeting any work requirement for a limited number of years that the Secretary determines will not impair achieving diligent development of the geothermal resource.

''(3) TERMINATION OF APPLICATION OF REQUIREMENTS.—Work commitment requirements prescribed under this subsection shall not apply to a geothermal lease after the date on which geothermal steam is produced or utilized under the lease in commercial quantities.

''(c) DETERMINATION OF WHETHER REQUIREMENTS SATISFIED.—The Secretary shall, by not later than 90 days after the end of each year for which work commitment requirements under subsection (b) apply to a geothermal lease—

''(1) determine whether the lessee has satisfied the requirements that apply for that year;

''(2) notify the lessee of that determination; and

''(3) in the case of a notification that the lessee did not satisfy work commitment requirements for the year, include in the notification—

''(A) a description of the specific work that was not completed by the lessee in accordance with the requirements; and

''(B) the amount of the dollar value of such work that was not completed, reduced by the amount of expenditures made for work completed in a prior year that is carried forward pursuant to subsection (b)(2)(D).

''(d) PAYMENT OF VALUE OF UNCOMPLETED WORK.—

''(1) IN GENERAL.—If the Secretary notifies a lessee that the lessee failed to satisfy work commitment requirements under subsection (b), the lessee shall pay to the Secretary, by not later than the end of the 60-day period beginning on the date of the notification, the dollar value of work that was not completed by the lessee, in the amount stated in the notification (as reduced under subsection (c)(3)(B)).

''(2) FAILURE TO PAY VALUE OF UNCOMPLETED WORK.—If a lessee fails to pay such amount to the Secretary before the end of that period, the lease shall terminate upon the expiration of the period.

''(e) CONTINUATION AFTER COMMERCIAL PRODUCTION OR UTILIZATION.—If geothermal steam is produced or utilized in commercial quantities within the primary term of the lease under subsection (a) (including any extension of the lease under subsection (a)), such lease shall continue until the date on which geothermal steam is no longer produced or utilized in commercial quantities.

''(f) CONVERSION OF GEOTHERMAL LEASE TO MINERAL LEASE.—The lessee under a lease that has produced geothermal steam for electrical generation, has been determined by the Secretary to be incapable of any further commercial production or utilization of geothermal steam, and that is producing any valuable byproduct in payable quantities may, within 6 months after such determination—

''(1) convert the lease to a mineral lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), if the lands that are subject to the lease can be leased under that Act for the production of such byproduct; or

''(2) convert the lease to a mining claim under the general mining laws, if the byproduct is a locatable mineral.''.

SEC. 224. ADVANCED ROYALTIES REQUIRED FOR SUSPENSION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:

''(f) ADVANCED ROYALTIES REQUIRED FOR SUSPENSION OF PRODUCTION.—

''(1) CONTINUATION OF LEASE FOLLOWING CESSATION OF PRODUCTION.—If, at any time after commercial production under a lease is achieved, production ceases for any cause the lease shall remain in full force and effect—

''(A) during the 1-year period beginning on the date production ceases; and

''(B) after such period if, and so long as, the lessee commences and continues diligently and in good faith until such production is resumed the steps, operations, or procedures necessary to cause a resumption of such production.

''(2) If production of heat or energy under a geothermal lease is suspended after the date of any such production for which royalty is required under subsection (a) and the terms of paragraph (1) are not met, the Secretary shall require the lessee, until the end of such suspension, to pay royalty in advance at the monthly pro-rata rate of the average annual rate at which such royalty was

paid each year in the 5-year-period preceding the date of suspension.

''(3) Paragraph (2) shall not apply if the suspension is required or otherwise caused by the Secretary, the Secretary of a military department, a State or local government, or a force majeure.''.

SEC. 225. ANNUAL RENTAL.

(a) ANNUAL RENTAL RATE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) in paragraph (3) by striking ''$1 per acre or fraction thereof for each year of the lease'' and all that follows through the end of the paragraph and inserting ''$1 per acre or fraction thereof for each year of the lease through the tenth year in the case of a lease awarded in a noncompetitive lease sale; or $2 per acre or fraction thereof for the first year, $3 per acre or fraction thereof for each of the second through tenth years, in the case of a lease awarded in a competitive lease sale; and $5 per acre or fraction thereof for each year after the 10th year thereof for all leases.''.

(b) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:

''(g) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—

''(1) IN GENERAL.—The Secretary shall terminate any lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, upon the expiration of the 45-day period beginning on the date of the failure to pay such rental.

''(2) NOTIFICATION.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

''(3) REINSTATEMENT.—A lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of such amount.''.

SEC. 226. LEASING AND PERMITTING ON FEDERAL LANDS WITHDRAWN FOR MILITARY PURPOSES.

Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Defense, in consultation with each military service and with interested States, counties, representatives of the geothermal industry, and other persons, shall submit to Congress a joint report concerning leasing and permitting activities for geothermal energy on Federal lands withdrawn for military purposes. Such report shall include the following:

(1) A description of the Military Geothermal Program, including any differences between it and the non-Military Geothermal Program, including required security procedures, and operational considerations, and discussions as to the differences, and why they are important. Further, the report shall describe revenues or energy provided to the Department of Defense and its facilities, royalty structures, where applicable, and any revenue sharing with States and counties or other benefits 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) If appropriate, a description of the current methods and procedures used to ensure interagency coordination, where needed, in developing renewable energy sources on Federal lands withdrawn for military purposes, and an identification of any new procedures that might be required in the future for the improvement of 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.

(3) Recommendations for any legislative or administrative actions that might better achieve increased geothermal production, including a common royalty structure, leasing procedures, or other changes that increase production, offset military operation costs, or enhance the Federal agencies' ability to develop geothermal resources.

Except as provided in this section, nothing in this subtitle shall affect the legal status of the Department of the Interior and the Department of the Defense with respect to each other regarding geothermal leasing and development until such status is changed by law.

SEC. 227. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

(1) By striking ''geothermal steam and associated geothermal resources'' each place it appears and inserting ''geothermal resources''.

(2) Section 2(e) (30 U.S.C. 1001(e)) is amended to read as follows:

''(e) 'direct use' means utilization of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity; and''.

(3) Section 21 (30 U.S.C. 1020) is amended by striking ''(a) Within one hundred'' and all that follows through ''(b) Geothermal'' and inserting ''Geothermal''.

(4) The first section (30 U.S.C. 1001 note) is amended by striking ''That this'' and inserting the following:

''SEC. 1. SHORT TITLE.

''This''.

(5) Section 2 (30 U.S.C. 1001) is amended by striking ''SEC. 2. As'' and inserting the following:

''SEC. 2. DEFINITIONS.

''As''.

(6) Section 3 (30 U.S.C. 1002) is amended by striking ''SEC. 3. Subject'' and inserting the following:

''SEC. 3 . LANDS SUBJECT TO GEOTHERMAL LEASING.

''Subject''.

(7) Section 5 (30 U.S.C. 1004) is further amended by striking ''SEC. 5.'', and by inserting immediately before and above subsection (a) the following:

''SEC. 5. RENTS AND ROYALTIES. ''.

(8) Section 7 (30 U.S.C. 1006) is amended by striking ''SEC. 7. A geothermal'' and inserting the following:

''SEC. 7. ACREAGE OF GEOTHERMAL LEASE.

''A geothermal''.

(9) Section 8 (30 U.S.C. 1007) is amended by striking ''SEC. 8. (a) The'' and inserting the following:

''SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

''(a) The''.

(10) Section 9 (30 U.S.C. 1008) is amended by striking ''SEC. 9. If'' and inserting the following:

''SEC. 9. BYPRODUCTS.

''If''.

(11) Section 10 (30 U.S.C. 1009) is amended by striking ''SEC. 10. The'' and inserting the following:

''SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

''The''.

(12) Section 11 (30 U.S.C. 1010) is amended by striking ''SEC. 11. The'' and inserting the following:

''SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

''The''.

(13) Section 12 (30 U.S.C. 1011) is amended by striking ''SEC. 12. Leases'' and inserting the following:

''SEC. 12. TERMINATION OF LEASES.

''Leases''.

(14) Section 13 (30 U.S.C. 1012) is amended by striking ''SEC. 13. The'' and inserting the following:

''SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

''The''.

(15) Section 14 (30 U.S.C. 1013) is amended by striking ''SEC. 14. Subject'' and inserting the following:

''SEC. 14. SURFACE LAND USE.

''Subject''.

(16) Section 15 (30 U.S.C. 1014) is amended by striking ''SEC. 15. (a) Geothermal'' and inserting the following:

''SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

''(a) Geothermal''.

(17) Section 16 (30 U.S.C. 1015) is amended by striking ''SEC. 16. Leases'' and inserting the following:

''SEC. 16. REQUIREMENT FOR LESSEES.

''Leases''.

(18) Section 17 (30 U.S.C. 1016) is amended by striking ''SEC. 17. Administration'' and inserting the following:

''SEC. 17. ADMINISTRATION.

''Administration''.

(19) Section 19 (30 U.S.C. 1018) is amended by striking ''SEC. 19. Upon'' and inserting the following:

''SEC. 19. DATA FROM FEDERAL AGENCIES.

''Upon''.

(20) Section 21 (30 U.S.C. 1020) is further amended by striking ''SEC. 21.'', and by inserting immediately before and above the remainder of that section the following:

''SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS. ''.

(21) Section 22 (30 U.S.C. 1021) is amended by striking ''SEC. 22. Nothing'' and inserting the following:

''SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

''Nothing''.

(22) Section 23 (30 U.S.C. 1022) is amended by striking ''SEC. 23. (a) All'' and inserting the following:

''SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

''(a) All''.

(23) Section 24 (30 U.S.C. 1023) is amended by striking ''SEC. 24. The'' and inserting the following:

''SEC. 24. RULES AND REGULATIONS.

''The''.

(24) Section 25 (30 U.S.C. 1024) is amended by striking ''SEC. 25. As'' and inserting the following:

''SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

''As''.

(25) Section 26 is amended by striking ''SEC. 26. The'' and inserting the following:

''SEC. 26. AMENDMENT.

''The''.

(26) Section 27 (30 U.S.C. 1025) is amended by striking ''SEC. 27. The'' and inserting the following:

''SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

''The''.

(27) Section 28 (30 U.S.C. 1026) is amended by striking ''SEC. 28. (a)(1) The'' and inserting the following:

"SEC. 28. SIGNIFICANT THERMAL FEATURES.

''(a)(1) The''.

(28) Section 29 (30 U.S.C. 1027) is amended by striking ''SEC. 29. The'' and inserting the following:

"SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

''The''.

Subtitle C—Hydroelectric

PART I—ALTERNATIVE CONDITIONS

SEC. 231. 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 expedited agency trial-type hearing of any disputed issues of material fact, with respect to such conditions. Such hearing may be conducted in accordance with procedures established by agency regulation in consultation with the Federal Energy Regulatory Commission.''.

(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 expedited agency trial-type hearing of any disputed issues of material fact, with respect to such fishways. Such hearing may be conducted in accordance with procedures established by agency regulation in consultation with the Federal Energy Regulatory Commission.''.

(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 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 provide for the adequate protection and utilization of 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.

''(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 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 be less protective than the fishway initially prescribed by the Secretary. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.''.

PART II—ADDITIONAL HYDROPOWER

SEC. 241. HYDROELECTRIC PRODUCTION INCENTIVES.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary of Energy (referred to in this section as the ''Secretary'') shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) DEFINITIONS.—For purposes of this section:

(1) QUALIFIED HYDROELECTRIC FACILITY.—The term ''qualified hydroelectric facility'' means a turbine or other generating device owned or solely operated by a non-Federal entity which generates hydroelectric energy for sale and which is added to an existing dam or conduit.

(2) EXISTING DAM OR CONDUIT.—The term ''existing dam or conduit'' means any dam or conduit the construction of which was completed before the date of the enactment of this section and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

(3) CONDUIT.—The term ''conduit'' has the same meaning as when used in section 30(a)(2) of the Federal Power Act (16 U.S.C. 823a(a)(2)).

The terms defined in this subsection shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after the date of the enactment of this section.

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electric energy generated from a qualified hydroelectric facility which begins operation during the period of 10 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle.

(d) INCENTIVE PERIOD.—A qualified hydroelectric facility may receive payments under this section for a period of 10 fiscal years (referred to in this section as the ''incentive period''). Such period shall begin with the fiscal year in which electric energy generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Payments made by the Secretary under this section to the owner or

operator of a qualified hydroelectric facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than $750,000 in 1 calendar year.

(2) ADJUSTMENTS.—The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2003 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2003 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 20 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section $10,000,000 for each of the fiscal years 2004 through 2013.

SEC. 242. HYDROELECTRIC EFFICIENCY IMPROVEMENT.

(a) INCENTIVE PAYMENTS.—The Secretary of Energy shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

(b) LIMITATIONS.—Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerned and not more than 1 payment may be made with respect to improvements at a single facility. No payment in excess of $750,000 may be made with respect to improvements at a single facility.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $10,000,000 for each of the fiscal years 2004 through 2013.

SEC. 243. SMALL HYDROELECTRIC POWER PROJECTS.

Section 408(a)(6) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(a)(6)) is amended by striking ''April 20, 1977'' and inserting ''March 4, 2003''.

SEC. 244. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy, in consultation with the Secretary of the Army, shall jointly conduct a study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretaries shall submit to the Committees on Energy and Commerce, Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 245. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities, including recreational releases.

SEC. 246. CORPS OF ENGINEERS HYDROPOWER OPERATION AND MAINTENANCE FUNDING.

(a) IN GENERAL.—Notwithstanding the last sentence of section 5 of the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 890, chapter 665; 16 U.S.C. 825s), the 11th paragraph under the heading ''OFFICE OF THE SECRETARY'' in title I of the Act of October 12, 1949 (63 Stat. 767, chapter 680; 16 U.S.C. 825s–1), the matter under the heading ''CONTINUING FUND, SOUTHEASTERN POWER ADMINISTRATION'' in title I of the Act of August 31, 1951 (65 Stat. 249, chapter 375; 16 U.S.C. 825s–2), section 3302 of title 31, United States Code, or any other law, and without further appropriation or fiscal year limitation, for fiscal year 2004, the Administrator of the Southeastern Power Administration, the Administrator of the Southwestern Power Administration, and the Administrator of the Western Area Power Administration may credit to the Secretary of the Army (referred to in this section as the ''Secretary''), receipts, in an amount determined under subsection (c), from the sale of power and related services.

(b) USE OF FUNDS.—

(1) IN GENERAL.—The Secretary—

(A) shall, except as provided in paragraph (2), use the amounts credited under subsection (a) to fund only the Corps of Engineers annual operation and maintenance activities that are allocated exclusively to the power function and assigned to the respective power marketing administration and respective project system as applicable for repayment; and

(B) shall not use the amounts for any costs allocated to non-power functions of Corps of Engineer operations.

(2) EXCEPTION.—The Secretary may use amounts credited by the Southwestern Power Administration under subsection (a) for capital and nonrecurring costs.

(c) AMOUNT.—The amount of the receipts credited under subsection (a) shall be equal to such amount as—

(1) the Secretary of the Army requests; and

(2) the appropriate Administrator, in consultation with the power customers of the Administrator's power marketing administration, determines to be appropriate to apply to the costs referred to in subsection (b).

(d) APPLICABLE LAW.—The amounts credited under subsection (a) are exempt from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.).

SEC. 247. LIMITATION ON CERTAIN CHARGES ASSESSED TO THE FLINT CREEK PROJECT, MONTANA.

Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other provision of Federal law providing for the payment to the United States of charges for the use of Federal land for the purposes of operating and maintaining a hydroelectric development licensed by the Federal Energy Regulatory Commission (referred to in this section as the ''Commission''), any political subdivision of the State of Montana that holds a license for Commission Project No. 1473 in Granite and Deer Lodge Counties, Montana, shall be required to pay to the United States for the use of that land for each year during which the political subdivision continues to hold the license for the project, the lesser of—

(1) $25,000; or

(2) such annual charge as the Commission or any other department or agency of the Federal Government may assess.

SEC. 248. REINSTATEMENT AND TRANSFER.

(a) REINSTATEMENT AND TRANSFER OF FEDERAL LICENSE FOR PROJECT NUMBERED 2696.—Notwithstanding section 8 of the Federal Power Act (16 U.S.C. 801) or any other provision of such Act, the Federal Energy Regulatory Commission shall reinstate the license for Project No. 2696 and transfer the license, without delay or the institution of any proceedings, to the Town of Stuyvesant, New York, holder of Federal Energy Regulatory Commission Preliminary Permit No. 11787, within 30 days after the date of enactment of this Act.

(b) HYDROELECTRIC INCENTIVES.—Project No. 2696 shall be entitled to the full benefit of any Federal legislation that promotes hydroelectric development that is enacted within 2 years either before or after the date of enactment of this Act.

(c) PROJECT DEVELOPMENT AND FINANCING.—The Federal Energy Regulatory Commission shall permit the Town of Stuyvesant

to add as a colicensee any private or public entity or entities to the reinstated license at any time, notwithstanding the issuance of a preliminary permit to the Town of Stuyvesant and any consideration of municipal preference. The town shall be entitled, to the extent that funds are available or shall be made available, to receive loans under sections 402 and 403 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2702 and 2703), or similar programs, for the reimbursement of feasibility studies or development costs, or both, incurred since January 1, 2001, through and including December 31, 2006. All power produced by the project shall be deemed incremental hydropower for purpose of qualifying for any energy credit or similar benefits.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(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 the following:

''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. 6250e); 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 inserting before section 273 (42 U.S.C. 6283) the following:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS'';

(2) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration of summer fill and fuel budgeting programs); and

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

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

''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) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—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)''.

(e) FILL STRATEGIC PETROLEUM RESERVE TO CAPACITY.—The Secretary of Energy shall, as expeditiously as practicable, acquire petroleum in amounts sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000 barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), consistent with the provisions of sections 159 and 160 of such Act (42 U.S.C. 6239, 6240).

SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.

Section 713 of the Energy Act of 2000 (42 U.S.C. 6201 note) is amended by striking ''4'' and inserting ''9''.

Subtitle B—Production Incentives

SEC. 311. DEFINITION OF SECRETARY.

In this subtitle, the term ''Secretary'' means the Secretary of the Interior.

SEC. 312. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after the date of enactment of this Act 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 Federal law governing leasing of Federal land for oil and gas development.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States 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) SATISFACTION OF ROYALTY OBLIGATION.—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) MARKETABLE CONDITION.—

(A) IN GENERAL.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(B) DEFINITION OF MARKETABLE CONDITION.—In this paragraph, the term ''in marketable condition'' means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(3) DISPOSITION BY THE SECRETARY.—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) RETENTION BY THE SECRETARY.—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 taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use oil or gas received as royalty taken in-kind (in this paragraph referred to as ''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) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from the sale of oil 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 the 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 royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) REPORTS.—

(1) IN GENERAL.—Not later than September 30, 2005, the Secretary shall submit to Congress a report that addresses—

(A) actions taken to develop businesses processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) REPORTS ON OIL OR GAS ROYALTIES TAKEN IN-KIND.—For each of fiscal years 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 subsection (h), the Secretary shall submit to Congress a report that describes—

(A) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-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 costs 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) IN GENERAL.—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 shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the United States Treasury.

(2) ACCOUNTING FOR DEDUCTIONS.—When the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary—

(1) shall consult with a State before conducting a royalty in-kind program under this subtitle within the State, and may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(2) shall consult 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) SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not have 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) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary of Energy may, at the discretion of the Secretary, prorate the oil among refineries described in paragraph (1) in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary in-kind from onshore oil and gas leases may be sold at not less than the market price to any Federal agency.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in-kind from a Federal oil or gas lease 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) FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—

(1) PREFERENCE.—In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit a report to Congress, assessing the effectiveness of granting preferences specified in paragraph (1) and providing a specific recommendation on the continuation of authority to grant preferences.

SEC. 313. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) DEFINITION OF MARGINAL PROPERTY.—Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in 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 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary issues regulations 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) IN GENERAL.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) PERIOD OF EFFECTIVENESS.—The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (d)(1)(A) shall terminate—

(1) with respect to 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; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) 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.

(e) REGULATIONS PRESCRIBING DIFFERENT RELIEF.—

(1) DISCRETIONARY REGULATIONS.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) MANDATORY REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall by regulation—

(A) prescribe standards and requirements for, and 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) CONSIDERATIONS.—In promulgating regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters.

(f) SAVINGS PROVISION.—Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

SEC. 314. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS.—The Secretary shall publish a final regulation to complete the rulemaking begun by the Notice of Proposed Rulemaking entitled ''Relief or Reduction in Royalty Rates—Deep Gas Provisions'', published in the Federal Register on March 26, 2003 (Federal Register, volume 68, number 58, 14868–14886).

(b) ROYALTY INCENTIVE REGULATIONS FOR ULTRA DEEP GAS WELLS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations, in accordance with the regulations published pursuant to subsection (a), granting royalty relief suspension volumes of not less than 35,000,000,000 cubic feet with respect to the production of natural gas from ultra deep wells on leases issued before 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. Regulations issued under this subsection shall be retroactive to the date that the Notice of Proposed Rulemaking is published in the Federal Register.

(2) DEFINITION OF ULTRA DEEP WELL.—In this subsection, the term ''ultra deep well'' means a well 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.

SEC. 315. 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 the 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 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) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters; and

(3) 12,000,000 barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

(b) LIMITATION.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

SEC. 316. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by inserting ''and in the Planning Areas offshore Alaska'' after ''West longitude''.

SEC. 317. OIL AND GAS LEASING IN THE NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) TRANSFER OF AUTHORITY.—

(1) REDESIGNATION.—The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C.

6501 et seq.) is amended by redesignating section 107 (42 U.S.C. 6507) as section 108.

(2) TRANSFER.—The matter under the heading ''EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA'' under the heading ''ENERGY AND MINERALS'' of title I of Public Law 96–514 (42 U.S.C. 6508) is—

(A) transferred to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

(B) redesignated as section 107 of that Act; and

(C) moved so as to appear after section 106 of that Act (42 U.S.C. 6506).

(b) COMPETITIVE LEASING.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as amended by subsection (a) of this section) is amended—

(1) by striking the heading and all that follows through ''*Provided*, That (1) activities'' and inserting the following:

''SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.

''(a) IN GENERAL.—Notwithstanding any other provision of law and pursuant to regulations issued by the Secretary, the Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska (referred to in this section as the 'Reserve').

''(b) MITIGATION OF ADVERSE EFFECTS.—Activities'';

(2) by striking ''Alaska (the Reserve); (2) the'' and inserting ''Alaska.

''(c) LAND USE PLANNING; BLM WILDERNESS STUDY.—The'';

(3) by striking ''Reserve; (3) the'' and inserting ''Reserve.

''(d) FIRST LEASE SALE.—The'';

(4) by striking ''4332); (4) the'' and inserting ''4321 et seq.).

''(e) WITHDRAWALS.—The'';

(5) by striking ''herein; (5) bidding'' and inserting ''under this section.

''(f) BIDDING SYSTEMS.—Bidding'';

(6) by striking ''629); (6) lease'' and inserting ''629).

''(g) GEOLOGICAL STRUCTURES.—Lease'';

(7) by striking ''structures; (7) the'' and inserting ''structures.

''(h) SIZE OF LEASE TRACTS.—The'';

(8) by striking ''Secretary; (8)'' and all that follows through ''Drilling, production,'' and inserting ''Secretary.

''(i) TERMS.—

''(1) IN GENERAL.—Each lease shall be—

''(A) issued for an initial period of not more than 10 years; and

''(B) renewed for successive 10-year terms if—

''(i) oil or gas is produced from the lease in paying quantities;

''(ii) oil or gas is capable of being produced in paying quantities; or

''(iii) drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

''(2) RENEWAL OF NONPRODUCING LEASES.—The Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1)(B) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and—

''(A) the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on 1 or more wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development;

''(B) the lessee—

''(i) pays the Secretary a renewal fee of $100 per acre of leased land; and

''(ii) provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future development of the leased land; or

''(C) all or part of the lease—

''(i) is part of a unit agreement covering a lease described in subparagraph (A) or (B); and

''(ii) has not been previously contracted out of the unit.

''(3) APPLICABILITY.—This subsection applies to a lease that—

''(A) is entered into before, on, or after the date of enactment of the Energy Policy Act of 2003; and

''(B) is effective on or after the date of enactment of that Act.

''(j) UNIT AGREEMENTS.—

''(1) IN GENERAL.—For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest.

''(2) PARTICIPATION BY STATE OF ALASKA.—The Secretary shall ensure that the State of Alaska is provided the opportunity for active participation concerning creation and management of units formed or expanded under this subsection that include acreage in which the State of Alaska has an interest in the mineral estate.

''(3) PARTICIPATION BY REGIONAL CORPORATIONS.—The Secretary shall ensure that any Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) is provided the opportunity for active participation concerning creation and management of units that include acreage in which the Regional Corporation has an interest in the mineral estate.

''(4) PRODUCTION ALLOCATION METHODOLOGY.—The Secretary may use a production allocation methodology for each participating area within a unit created for land in the Reserve, State of Alaska land, or Regional Corporation land shall, when appropriate, be based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and a real variation in reservoir producibility across diverse leasehold interests.

''(5) BENEFIT OF OPERATIONS.—Drilling, production,'';

(9) by striking ''When separate'' and inserting the following:

''(6) POOLING.—If separate'';

(10) by inserting ''(in consultation with the owners of the other land)'' after ''determined by the Secretary of the Interior'';

(11) by striking ''thereto; (10) to'' and all that follows through ''the terms provided therein'' and inserting ''to the agreement.

''(k) EXPLORATION INCENTIVES.—

''(1) IN GENERAL.—

''(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), if (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include lands available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) the Secretary determines that the waiver, suspension, or reduction is in the public interest.

''(B) APPLICABILITY.—This paragraph applies to a lease that—

''(i) is entered into before, on, or after the date of enactment of the Energy Policy Act of 2003; and

''(ii) is effective on or after the date of enactment of that Act.'';

(12) by striking ''The Secretary is authorized to'' and inserting the following:

''(2) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may'';

(13) by striking ''In the event'' and inserting the following:

''(3) SUSPENSION OF PAYMENTS.—If'';

(14) by striking ''thereto; and (11) all'' and inserting ''to the lease.

''(1) RECEIPTS.—All'';

(15) by redesignating clauses (A), (B), and (C) as clauses (1), (2), and (3), respectively;

(16) by striking ''Any agency'' and inserting the following:

''(m) EXPLORATIONS.—Any agency'';

(17) by striking ''Any action'' and inserting the following:

''(n) ENVIRONMENTAL IMPACT STATEMENTS.—

''(1) JUDICIAL REVIEW.—Any action'';

(18) by striking ''The detailed'' and inserting the following:

''(2) INITIAL LEASE SALES.—The detailed'';

(19) by striking ''of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504)''; and

(20) by adding at the end the following:

''(o) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)) or any other provision of law—

''(1) the Secretary of the Interior shall waive administration of any oil and gas lease insofar as such lease covers any land in the National Petroleum Reserve in Alaska in which the subsurface estate is conveyed to the Arctic Slope Regional Corporation; and

''(2) if any such conveyance of such subsurface estate does not cover all the land embraced within any such oil and gas lease—

''(A) the person who owns the subsurface estate in any particular portion of the land covered by such lease shall be entitled to all of the revenues reserved under such lease as to such portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to such particular portion of the land covered by such lease; and

''(B) the Secretary of the Interior shall segregate such lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Arctic Slope Regional Corporation, and operations, production, or other circumstances (other than payment of rentals or royalties) that satisfy obligations of the lessee under, or maintain, either of the segregated leases shall likewise satisfy obligations of the lessee under, or maintain, the other segregated lease to the same extent as if such segregated leases remained a part of the original unsegregated lease.''.

SEC. 318. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

(b) ACTIVITIES.—The program under subsection (a) shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based

on public health and safety, potential environmental 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.

(c) COOPERATION AND CONSULTATIONS.—In carrying out the program under subsection (a), the Secretary shall—

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(d) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall submit to Congress a plan for carrying out the program under subsection (a).

(e) IDLED WELL.—For the purposes of this section, a well is idled if—

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LAND.—

(1) IN GENERAL.—The Secretary of Energy shall establish a program to provide technical and financial assistance to 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 land.

(2) ASSISTANCE.—The Secretary of Energy 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 or abandoned oil or gas wells on State and private land.

(3) ACTIVITIES.—The program under paragraph (1) shall include—

(A) mechanisms to facilitate identification, if feasible, of the persons 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;

(C) information and training programs on best practices for remediation of different types of sites; and

(D) funding of State mitigation efforts on a cost-shared basis.

(g) FEDERAL REIMBURSEMENT FOR ORPHANED WELL RECLAMATION PILOT PROGRAM.—

(1) REIMBURSEMENT FOR REMEDIATING, RECLAIMING, AND CLOSING WELLS ON LAND SUBJECT TO A NEW LEASE.—The Secretary shall carry out a pilot program under which, in issuing a new oil and gas lease on federally owned land on which 1 or more orphaned wells are located, the Secretary—

(A) may require, but not as a condition of the lease, that the lessee remediate, reclaim, and close in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(B) shall develop a program to reimburse a lessee, through a royalty credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned well pursuant to that requirement.

(2) REIMBURSEMENT FOR RECLAIMING ORPHANED WELLS ON OTHER LAND.—In carrying out this subsection, the Secretary—

(A) may authorize any lessee under an oil and gas lease on federally owned land to reclaim in accordance with the Secretary's standards—

(i) an orphaned well on unleased federally owned land; or

(ii) an orphaned well located on an existing lease on federally owned land for the reclamation of which the lessee is not legally responsible; and

(B) shall develop a program to provide reimbursement of 115 percent of the reasonable actual costs of remediating, reclaiming, and closing the orphaned well, through credits against the Federal share of royalties or other means.

(3) EFFECT OF REMEDIATION, RECLAMATION, OR CLOSURE OF WELL PURSUANT TO AN APPROVED REMEDIATION PLAN.—

(A) DEFINITION OF REMEDIATING PARTY.—In this paragraph the term ''remediating party'' means a person who remediates, reclaims, or closes an abandoned, orphaned, or idled well pursuant to this subsection.

(B) GENERAL RULE.—A remediating party who remediates, reclaims, or closes an abandoned, orphaned, or idled well in accordance with a detailed written remediation plan approved by the Secretary under this subsection, shall be immune from civil liability under Federal environmental laws, for—

(i) pre-existing environmental conditions at or associated with the well, unless the remediating party owns or operates, in the past owned or operated, or is related to a person that owns or operates or in the past owned or operated, the well or the land on which the well is located; or

(ii) any remaining releases of pollutants from the well during or after completion of the remediation, reclamation, or closure of the well, unless the remediating party causes increased pollution as a result of activities that are not in accordance with the approved remediation plan.

(C) LIMITATIONS.—Nothing in this section shall limit in any way the liability of a remediating party for injury, damage, or pollution resulting from the remediating party's acts or omissions that are not in accordance with the approved remediation plan, are reckless or willful, constitute gross negligence or wanton misconduct, or are unlawful.

(4) REGULATIONS.—The Secretary may issue such regulations as are appropriate to carry out this subsection.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2005 through 2009.

(2) USE.—Of the amounts authorized under paragraph (1), $5,000,000 are authorized for each fiscal year for activities under subsection (f).

SEC. 319. COMBINED HYDROCARBON LEASING.

(a) SPECIAL PROVISIONS REGARDING LEASING.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

''(i) a lease for exploration for and extraction of tar sand; and

''(ii) a lease for exploration for and development of oil and gas.

''(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $2 per acre.

''(D) The Secretary may waive, suspend, or alter any requirement under section 26 that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.''.

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is amended in the second sentence by inserting '', subject to paragraph (2)(B),'' after ''Secretary''.

(c) REGULATIONS.—Not later than 45 days after the date of enactment of this Act, the Secretary shall issue final regulations to implement this section.

SEC. 320. LIQUIFIED NATURAL GAS.

Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

''(d) LIMITATION ON COMMISSION AUTHORITY.—If an applicant under this section proposes to construct or expand a liquified natural gas terminal either onshore or in State waters for the purpose of importing liquified natural gas into the United States, the Commission shall not deny or condition the application solely on the basis that the applicant proposes to utilize the terminal exclusively or partially for gas that the applicant or any affiliate thereof will supply thereto. In all other respects, subsection (a) shall remain applicable to any such proposal.''.

SEC. 321. 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:

''(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), or the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

''(A) support exploration, development, production, transportation, or storage of oil, natural gas, or other minerals;

''(B) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

''(C) use, for energy-related or marine-related purposes, facilities currently or previously used for activities authorized under this Act.

''(2) PAYMENTS.—The Secretary shall establish reasonable forms of payments for any easement or right-of-way granted under this subsection. Such payments shall not be assessed on the basis of throughput or production. The Secretary may establish fees, rentals, bonus, or other payments by rule or by agreement with the party to which the lease, easement, or right-of-way is granted.

''(3) CONSULTATION.—Before exercising authority under this subsection, the Secretary shall consult with the Secretary of Defense and other appropriate agencies concerning issues related to national security and navigational obstruction.

''(4) COMPETITIVE OR NONCOMPETITIVE BASIS.—

''(A) IN GENERAL.—The Secretary may issue a lease, easement, or right-of-way for

energy and related purposes as described in paragraph (1) on a competitive or noncompetitive basis.

''(B) CONSIDERATIONS.—In determining whether a lease, easement, or right-of-way shall be granted competitively or noncompetitively, the Secretary shall consider such factors as—

''(i) prevention of waste and conservation of natural resources;

''(ii) the economic viability of an energy project;

''(iii) protection of the environment;

''(iv) the national interest and national security;

''(v) human safety;

''(vi) protection of correlative rights; and

''(vii) potential return for the lease, easement, or right-of-way.

''(5) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2003, the Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant agencies of the Federal Government and affected States, shall issue any necessary regulations to ensure safety, protection of the environment, prevention of waste, and conservation of the natural resources of the outer Continental Shelf, protection of national security interests, and protection of correlative rights in the outer Continental Shelf.

''(6) SECURITY.—The Secretary shall require the holder of a lease, 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 considers necessary to protect the interests of the United States.

''(7) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

''(8) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf designated as a National Marine Sanctuary.''.

(b) CONFORMING AMENDMENT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking the section heading and inserting the following: ''LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—''.

(c) SAVINGS PROVISION.—Nothing in the amendment made by subsection (a) requires, with respect to any project—

(1) for which offshore test facilities have been constructed before the date of enactment of this Act; or

(2) for which a request for proposals has been issued by a public authority,

any resubmittal of documents previously submitted or any reauthorization of actions previously authorized.

SEC. 322. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

(a) SHORT TITLE.—This section may be cited as the ''National Geological and Geophysical Data Preservation Program Act of 2004''.

(b) PROGRAM.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material; and

(3) to provide technical and financial assistance related to the archival material.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples 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) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as the geological survey in the State.

(4) DATA FROM FEDERAL LAND.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data were collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) NATIONAL CATALOG.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in the system; and

(C) the means of accessing the material.

(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities under subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be not more than 50 percent of the total cost of the activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of 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) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) PROGRAM.—The term ''Program'' means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) SURVEY.—The term ''Survey'' means the United States Geological Survey.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2004 through 2008.

SEC. 323. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after ''acreage held in special tar sand areas'' the following: '', and 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. 324. 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 affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquified natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of the displacement on the economic relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquified 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 the 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 1 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, a report detailing the findings, conclusions, and recommendations resulting from the assessment.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 325. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION UNDER THE COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) IN GENERAL.—Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended to read as follows:

''APPEALS TO THE SECRETARY

''SEC. 319. (a) NOTICE.—The Secretary shall publish an initial notice in the Federal Register not later than 30 days after the date of the filing of any appeal to the Secretary of a consistency determination under section 307.

''(b) CLOSURE OF RECORD.—

''(1) IN GENERAL.—Not later than the end of the 120-day period beginning on the date of publication of an initial notice under subsection (a), the Secretary shall receive no more filings on the appeal and the administrative record regarding the appeal shall be closed.

''(2) NOTICE.—Upon the closure of the administrative record, the Secretary shall immediately publish a notice that the administrative record has been closed.

''(c) DEADLINE FOR DECISION.—The Secretary shall issue a decision in any appeal filed under section 307 not later than 120 days after the closure of the administrative record.

''(d) APPLICATION.—This section applies to appeals initiated by the Secretary and appeals filed by an applicant.''.

(b) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to any appeal initiated or filed before, on, or after the date of enactment of this Act.

(2) LIMITATION.—Subsection (a) of section 319 of the Coastal Zone Management Act of 1972 (as amended by subsection (a)) shall not apply with respect to an appeal initiated or filed before the date of enactment of this Act.

(c) CLOSURE OF RECORD FOR APPEAL FILED BEFORE DATE OF ENACTMENT.—Notwithstanding section 319(b)(1) of the Coastal Zone Management Act of 1972 (as amended by this section), in the case of an appeal of a consistency determination under section 307 of that Act initiated or filed before the date of enactment of this Act, the Secretary of Commerce shall receive no more filings on the appeal and the administrative record regarding the appeal shall be closed not later than 120 days after the date of enactment of this Act.

SEC. 326. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Mineral Leasing Act is amended by inserting after section 37 (30 U.S.C. 193) the following:

''REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

''SEC. 38. (a) IN GENERAL.—The Secretary of the Interior may reimburse a person that is a lessee, operator, operating rights owner, or applicant for any lease under this Act for reasonable amounts paid by the person for preparation for the Secretary by a contractor or other person selected by the Secretary of any project-level analysis, documentation, or related study required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (a) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily;

''(3) the person maintains records of its costs in accordance with regulations issued by the Secretary;

''(4) the reimbursement is in the form of a reduction in the Federal share of the royalty required to be paid for the lease for which the analysis, documentation, or related study is conducted, and is agreed to by the Secretary and the person reimbursed prior to commencing the analysis, documentation, or related study; and

''(5) the agreement required under paragraph (4) contains provisions—

''(A) reducing royalties owed on lease production based on market prices;

''(B) stipulating an automatic termination of the royalty reduction upon recovery of documented costs; and

''(C) providing a process by which the lessee may seek reimbursement for circumstances in which production from the specified lease is not possible.''.

(b) APPLICATION.—The amendment made by this section shall apply with respect to an analysis, documentation, or a related study conducted on or after the date of enactment of this Act for any lease entered into before, on, or after the date of enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendment made by this section by not later than 1 year after the date of enactment of this Act.

SEC. 327. HYDRAULIC FRACTURING.

Paragraph (1) of section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended to read as follows:

''(1) UNDERGROUND INJECTION.—The term 'underground injection'—

''(A) means the subsurface emplacement of fluids by well injection; and

''(B) excludes—

''(i) the underground injection of natural gas for purposes of storage; and

''(ii) the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations related to oil or gas production activities.''.

SEC. 328. OIL AND GAS EXPLORATION AND PRODUCTION DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(24) OIL AND GAS EXPLORATION AND PRODUCTION.—The term 'oil and gas exploration, production, processing, or treatment operations or transmission facilities' means all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities.''.

SEC. 329. OUTER CONTINENTAL SHELF PROVISIONS.

(a) STORAGE ON THE OUTER CONTINENTAL SHELF.—Section 5(a)(5) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(5)) is amended by inserting ''from any source'' after ''oil and gas''.

(b) DEEPWATER PROJECTS.—Section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1505) is amended by adding at the end the following:

''(d) RELIANCE ON ACTIVITIES OF OTHER AGENCIES.—In fulfilling the requirements of section 5(f)—

''(1) to the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may use the information derived from those activities in lieu of directly conducting such activities; and

''(2) the Secretary may use information obtained from any State or local government or from any person.''.

(c) NATURAL GAS DEFINED.—Section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)) is amended to read as follows:

''(13) natural gas means—

''(A) natural gas unmixed; or

''(B) any mixture of natural or artificial gas, including compressed or liquefied natural gas, natural gas liquids, liquefied petroleum gas, and condensate recovered from natural gas;''.

SEC. 330. APPEALS RELATING TO PIPELINE CONSTRUCTION OR OFFSHORE MINERAL DEVELOPMENT PROJECTS.

(a) AGENCY OF RECORD, PIPELINE CONSTRUCTION PROJECTS.—Any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to Federal authority for an interstate natural gas pipeline construction project, including construction

of natural gas storage and liquefied natural gas facilities, shall use as its exclusive record for all purposes the record compiled by the Federal Energy Regulatory Commission pursuant to the Commission's proceeding under sections 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f).

(b) SENSE OF CONGRESS.—It is the sense of Congress that all Federal and State agencies with jurisdiction over interstate natural gas pipeline construction activities should coordinate their proceedings within the timeframes established by the Federal Energy Regulatory Commission when the Commission is acting under sections 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f) to determine whether a certificate of public convenience and necessity should be issued for a proposed interstate natural gas pipeline.

(c) AGENCY OF RECORD, OFFSHORE MINERAL DEVELOPMENT PROJECTS.—Any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to Federal authority for the permitting, approval, or other authorization of energy projects, including projects to explore, develop, or produce mineral resources in or underlying the outer Continental Shelf shall use as its exclusive record for all purposes (except for the filing of pleadings) the record compiled by the relevant Federal permitting agency.

SEC. 331. BILATERAL INTERNATIONAL OIL SUPPLY AGREEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may export oil to, or secure oil for, any country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

(b) MEMORANDUM OF AGREEMENT.—The following agreements are deemed to have entered into force by operation of law and are deemed to have no termination date:

(1) The agreement entitled ''Agreement amending and extending the memorandum of agreement of June 22, 1979'', entered into force November 13, 1994 (TIAS 12580).

(2) The agreement entitled ''Agreement amending the contingency implementing arrangements of October 17, 1980'', entered into force June 27, 1995 (TIAS 12670).

SEC. 332. NATURAL GAS MARKET REFORM.

(a) CLARIFICATION OF EXISTING CFTC AUTHORITY.—

(1) FALSE REPORTING.—Section 9(a)(2) of the Commodity Exchange Act (7 U.S.C. 13(a)(2)) is amended by striking ''false or misleading or knowingly inaccurate reports'' and inserting ''knowingly false or knowingly misleading or knowingly inaccurate reports''.

(2) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by redesignating subsection (f) as subsection (e), and adding:

''(f) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—The Commission may bring administrative or civil actions 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).''.

(3) EFFECT OF AMENDMENTS.—The amendments made by paragraphs (1) and (2) restate, without substantive change, existing burden of proof provisions and existing Commission civil enforcement authority, respectively. These clarifying changes do not alter any existing burden of proof or grant any new statutory authority. The provisions of this section, as restated herein, continue to apply to any action pending on or commenced after the date of enactment of this Act for any act, omission, or violation occurring before, on, or after, such date of enactment.

(b) FRAUD AUTHORITY.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

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

''(a) It shall be unlawful—

''(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

''(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to section 5a(g) (1) and (2) of this Act, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

''(A) to cheat or defraud or attempt to cheat or defraud such other person;

''(B) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for such other person any false record;

''(C) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of subsection (a)(2), with such other person; or

''(D)(i) to bucket an order if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market; or

''(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of such other person to become the buyer in respect to any selling order of such other person, or become the seller in respect to any buying order of such other person, if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market.

''(b) Subsection (a)(2) shall not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to section 5a(g) (1) and (2) of this Act, with another person, to disclose to such other person nonpublic information that may be material to the market price of such commodity or transaction, except as necessary to make any statement made to such other person in connection with such transaction, not misleading in any material respect.''.

(c) JURISDICTION OF THE CFTC.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by adding at the end:

''SEC. 26. JURISDICTION.

''This Act 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 by the Commission 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, which shall cooperate in responding to any information request by the Commission.''.

(d) INCREASED PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a)—

(A) by striking ''$5,000'' and inserting ''$1,000,000''; and

(B) by striking ''two years'' and inserting ''5 years''; and

(2) in subsection (b), by striking ''$500'' and inserting ''$50,000''.

SEC. 333. NATURAL GAS MARKET TRANSPARENCY.

The Natural Gas Act (15 U.S.C 717 et seq.) is amended—

(1) by redesignating section 24 as section 25; and

(2) by inserting after section 23 the following:

''SEC. 24. NATURAL GAS MARKET TRANSPARENCY.

''(a) AUTHORIZATION.—(1) Not later than 180 days after the date of enactment of the Energy Policy Act of 2003, the Federal Energy Regulatory Commission shall issue rules directing all entities subject to the Commission's jurisdiction as provided under this Act to timely report information about the availability and prices of natural gas sold at wholesale in interstate commerce to the Commission and price publishers.

''(2) The Commission shall evaluate the data for adequate price transparency and accuracy.

''(3) Rules issued under this subsection requiring the reporting of information to the Commission that may become publicly available shall be limited to aggregate data and transaction-specific data that are otherwise required by the Commission to be made public.

''(4) In exercising its authority under this section, the Commission shall not—

''(A) compete with, or displace from the market place, any price publisher; or

''(B) regulate price publishers or impose any requirements on the publication of information.

''(b) TIMELY ENFORCEMENT.—No person shall be subject to any penalty under this section with respect to a violation occurring more than 3 years before the date on which the Federal Energy Regulatory Commission seeks to assess a penalty.

''(c) LIMITATION ON COMMISSION AUTHORITY.—(1) The Commission shall not condition access to interstate pipeline transportation upon the reporting requirements authorized under this section.

''(2) Natural gas sales by a producer that are attributable to volumes of natural gas produced by such producer shall not be subject to the rules issued pursuant to this section.

''(3) The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to participate in the reporting requirements provided in this section.''.

Subtitle C—Access to Federal Land

SEC. 341. OFFICE OF FEDERAL ENERGY PROJECT COORDINATION.

(a) ESTABLISHMENT.—The President shall establish the Office of Federal Energy Project Coordination (referred to in this section as the ''Office'') within the Executive Office of the President in the same manner and with the same mission as the White

House Energy Projects Task Force established by Executive Order No. 13212 (42 U.S.C. 13201 note).

(b) STAFFING.—The Office shall be staffed by functional experts from relevant Federal agencies on a nonreimbursable basis to carry out the mission of the Office.

(c) REPORT.—The Office shall transmit an annual report to Congress that describes the activities put in place to coordinate and expedite Federal decisions on energy projects. The report shall list accomplishments in improving the Federal decisionmaking process and shall include any additional recommendations or systemic changes needed to establish a more effective and efficient Federal permitting process.

SEC. 342. FEDERAL ONSHORE OIL AND GAS LEASING AND PERMITTING PRACTICES.

(a) REVIEW OF ONSHORE OIL AND GAS LEASING PRACTICES.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture with respect to National Forest System lands under the jurisdiction of the Department of Agriculture, shall perform an internal review of current Federal onshore oil and gas leasing and permitting practices.

(2) INCLUSIONS.—The review shall include the process for—

(A) accepting or rejecting offers to lease;

(B) administrative appeals of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease;

(C) considering surface use plans of operation, including the timeframes in which the plans are considered, and any recommendations for improving and expediting the process; and

(D) identifying stipulations to address site-specific concerns and conditions, including those stipulations relating to the environment and resource use conflicts.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall transmit a report to Congress that describes—

(1) actions taken under section 3 of Executive Order No. 13212 (42 U.S.C. 13201 note); and

(2) actions taken or any plans to improve the Federal onshore oil and gas leasing program.

SEC. 343. MANAGEMENT OF FEDERAL OIL AND GAS LEASING PROGRAMS.

(a) TIMELY ACTION ON LEASES AND PERMITS.—To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing, the Secretary of the Interior (in this section referred to as the ''Secretary'') shall—

(1) ensure expeditious compliance with 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 the public; and

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

(b) BEST MANAGEMENT PRACTICES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement best management practices to—

(A) improve the administration of the onshore oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(B) ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing.

(2) CONSIDERATIONS.—In developing the best management practices under paragraph (1), the Secretary shall consider any recommendations from the review under section 342.

(3) REGULATIONS.—Not later than 180 days after the development of best management practices under paragraph (1), the Secretary shall publish, for public comment, proposed regulations that set forth specific timeframes for processing leases and applications in accordance with the practices, including deadlines for—

(A) approving or disapproving resource management plans and related documents, lease applications, and surface use plans; and

(B) related administrative appeals.

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

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated to carry out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary for each of fiscal years 2004 through 2007—

(1) $40,000,000 to carry out subsections (a) and (b); and

(2) $20,000,000 to carry out subsection (c).

SEC. 344. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public lands under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System lands under the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of oil and gas lease applications, surface use plans of operation, and applications for permits to drill, including steps for processing surface use plans and applications for permits to drill consistent with the timelines established by the amendment made by section 348;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts; and

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied.

(c) DATA RETRIEVAL SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture.

(2) RESOURCE MAPPING.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint Geographic Information System mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 345. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LAND.

(a) ASSESSMENT.—Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''reserve''; and

(ii) by striking ''and'' after the semicolon; and

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

''(2) the extent and nature of any restrictions or impediments to the development of the resources, including—

''(A) impediments to the timely granting of leases;

''(B) post-lease restrictions, impediments, or delays on development for conditions of approval, applications for permits to drill, or processing of environmental permits; and

''(C) permits or restrictions associated with transporting the resources for entry into commerce; and

''(3) the quantity of resources not produced or introduced into commerce because of the restrictions.'';

(2) in subsection (b)—

(A) by striking ''reserve'' and inserting ''resource''; and

(B) by striking ''publically'' and inserting ''publicly''; and

(3) by striking subsection (d) and inserting the following:

''(d) ASSESSMENTS.—Using the inventory, the Secretary of Energy shall make periodic assessments of economically recoverable resources accounting for a range of parameters such as current costs, commodity prices, technology, and regulations.''.

(b) METHODOLOGY.—The Secretary of the Interior shall use the same assessment methodology across all geological provinces, areas, and regions in preparing and issuing national geological assessments to ensure accurate comparisons of geological resources.

SEC. 346. COMPLIANCE WITH EXECUTIVE ORDER 13211; ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE.

(a) REQUIREMENT.—The head of each Federal agency shall require that before the Federal agency takes any action that could have a significant adverse effect on the supply of domestic energy resources from Federal public land, the Federal agency taking the action shall comply with Executive Order No. 13211 (42 U.S.C. 13201 note).

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish guidance for purposes of this section describing what constitutes a significant adverse effect on the supply of domestic energy resources under Executive Order No. 13211 (42 U.S.C. 13201 note).

(c) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior and the Secretary of Agriculture shall include in the memorandum of understanding under section 344 provisions for implementing subsection (a) of this section.

SEC. 347. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) ESTABLISHMENT.—The Secretary of the Interior (in this section referred to as the ''Secretary'') shall establish a Federal Permit Streamlining Pilot Project (in this section referred to as the ''Pilot Project'').

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Chief of Engineers of the Army Corps of Engineers for purposes of this section.

(2) STATE PARTICIPATION.—The Secretary may request that the Governors of Wyoming, Montana, Colorado, Utah, and New Mexico be signatories to the memorandum of understanding.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall assign to each of the field offices identified in subsection (d), on a nonreimbursable basis, an employee who has expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) FIELD OFFICES.—The following Bureau of Land Management Field Offices shall serve as the Pilot Project offices:

(1) Rawlins, Wyoming.

(2) Buffalo, Wyoming.

(3) Miles City, Montana

(4) Farmington, New Mexico.

(5) Carlsbad, New Mexico.

(6) Glenwood Springs, Colorado.

(7) Vernal, Utah.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) outlines the results of the Pilot Project to date; and

(2) makes a recommendation to the President regarding whether the Pilot Project should be implemented throughout the United States.

(f) ADDITIONAL PERSONNEL.—The Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq).

(g) SAVINGS PROVISION.—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 348. DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

''(p) DEADLINES FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.—

''(1) IN GENERAL.—Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

''(A) notify the applicant that the application is complete; or

''(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

''(2) ISSUANCE OR DEFERRAL.—Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

''(A) issue the permit; or

''(B)(i) defer decision on the permit; and

''(ii) provide to the applicant a notice that specifies any steps that the applicant could take for the permit to be issued.

''(3) REQUIREMENTS FOR DEFERRED APPLICATIONS.—

''(A) IN GENERAL.—If the Secretary provides notice under paragraph (2)(B)(ii), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(B) ISSUANCE OF DECISION ON PERMIT.—If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A).

''(C) DENIAL OF PERMIT.—If the applicant does not complete the requirements within the period specified in subparagraph (A), the Secretary shall deny the permit.

''(q) REPORT.—On a quarterly basis, each field office of the Bureau of Land Management and the Forest Service shall transmit to the Secretary of the Interior or the Secretary of Agriculture, respectively, a report that—

''(1) specifies the number of applications for permits to drill received by the field office in the period covered by the report; and

''(2) describes how each of the applications was disposed of by the field office.''.

SEC. 349. CLARIFICATION OF FAIR MARKET RENTAL VALUE DETERMINATIONS FOR PUBLIC LAND AND FOREST SERVICE RIGHTS-OF-WAY.

(a) LINEAR RIGHTS-OF-WAY UNDER FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976.—Section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) is amended by adding at the end the following:

''(k) DETERMINATION OF FAIR MARKET VALUE OF LINEAR RIGHTS-OF-WAY.—

''(1) IN GENERAL.—Effective beginning on the date of the issuance of the rules required by paragraph (2), for purposes of subsection (g), the Secretary concerned shall determine the fair market value for the use of land encumbered by a linear right-of-way granted, issued, or renewed under this title using the valuation method described in paragraphs (2), (3), and (4).

''(2) REVISIONS.—Not later than 1 year after the date of enactment of this subsection—

''(A) the Secretary of the Interior shall amend section 2803.1–2 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this subsection, to revise the per acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone; and

''(B) the Secretary of Agriculture shall make the same revision for linear rights-of-way granted, issued, or renewed under this title on National Forest System land.

''(3) UPDATES.—The Secretary concerned shall annually update the schedule revised under paragraph (2) by multiplying the current year's rental per acre by the annual change, second quarter to second quarter (June 30 to June 30) in the Gross National Product Implicit Price Deflator Index published in the Survey of Current Business of the Department of Commerce, Bureau of Economic Analysis.

''(4) REVIEW.—If the cumulative change in the index referred to in paragraph (3) exceeds 30 percent, or the change in the 3-year average of the 1-year Treasury interest rate used to determine per acre rental fee zone values exceeds plus or minus 50 percent, the Secretary concerned shall conduct a review of the zones and rental per acre figures to determine whether the value of Federal land has differed sufficiently from the index referred to in paragraph (3) to warrant a revision in the base zones and rental per acre figures. If, as a result of the review, the Secretary concerned determines that such a revision is warranted, the Secretary concerned shall revise the base zones and rental per acre figures accordingly. Any revision of base zones and rental per acre figure shall only affect lease rental rates at inception or renewal.''.

(b) RIGHTS-OF-WAY UNDER MINERAL LEASING ACT.—Section 28(*l*) of the Mineral Leasing Act (30 U.S.C. 185(*l*)) is amended by inserting before the period at the end the following: ''using the valuation method described in section 2803.1–2 of title 43, Code of Federal Regulations, as revised in accordance with section 504(k) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(k))''.

SEC. 350. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

(a) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Federal Energy Regulatory Commission, shall submit to Congress a joint report—

(A) that addresses—

(i) the location of existing rights-of-way and designated and de facto corridors for oil and gas pipelines and electric transmission and distribution facilities on Federal land; and

(ii) opportunities for additional oil and gas pipeline and electric transmission capacity within those rights-of-way and corridors; and

(B) that includes a plan for making available, on request, to the appropriate Federal, State, and local agencies, tribal governments, and other persons involved in the siting of oil and gas pipelines and electricity transmission facilities Geographic Information System-based information regarding the location of the existing rights-of-way and corridors and any planned rights-of-way and corridors.

(2) CONSULTATIONS AND CONSIDERATIONS.—In preparing the report, the Secretary of the Interior and the Secretary of Agriculture shall consult with—

(A) other agencies of Federal, State, tribal, or local units of government, as appropriate;

(B) persons involved in the siting of oil and gas pipelines and electric transmission facilities; and

(C) other interested members of the public.

(3) LIMITATION.—The Secretary of the Interior and the Secretary of Agriculture shall limit the distribution of the report and Geographic Information System-based information referred to in paragraph (1) as necessary for national and infrastructure security reasons, if either Secretary determines that the information may be withheld from public disclosure under a national security or other exception under section 552(b) of title 5, United States Code.

(b) CORRIDOR DESIGNATIONS.—

(1) 11 CONTIGUOUS WESTERN STATES.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall jointly—

(A) designate, under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) and other applicable Federal laws, corridors for oil and gas pipelines and electricity transmission and facilities on Federal land in the eleven contiguous Western States (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702));

(B) perform any environmental reviews that may be required to complete the designations of corridors for the facilities on Federal land in the eleven contiguous Western States; and

(C) incorporate the designated corridors into—

(i) the relevant departmental and agency land use and resource management plans; or

(ii) equivalent plans.

(2) OTHER STATES.—Not later than 4 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall jointly—

(A) identify corridors for oil and gas pipelines and electricity transmission and distribution facilities on Federal land in the States other than those described in paragraph (1); and

(B) schedule prompt action to identify, designate, and incorporate the corridors into the land use plan.

(3) ONGOING RESPONSIBILITIES.—After completing the requirements under paragraphs (1) and (2), the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, with respect to lands under their respective jurisdictions, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall establish procedures that—

(A) ensure that additional corridors for oil and gas pipelines and electricity transmission and distribution facilities on Federal land are promptly identified and designated; and

(B) expedite applications to construct or modify oil and gas pipelines and electricity transmission and distribution facilities within the corridors, taking into account prior analyses and environmental reviews undertaken during the designation of corridors.

(c) CONSIDERATIONS.—In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

(1) improve reliability;

(2) relieve congestion; and

(3) enhance the capability of the national grid to deliver electricity.

(d) DEFINITION OF CORRIDOR.—

(1) IN GENERAL.—In this section and title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.), the term ''corridor'' means—

(A) a linear strip of land—

(i) with a width determined with consideration given to technological, environmental, and topographical factors; and

(ii) that contains, or may in the future contain, 1 or more utility, communication, or transportation facilities;

(B) a land use designation that is established—

(i) by law;

(ii) by Secretarial Order;

(iii) through the land use planning process; or

(iv) by other management decision; and

(C) a designation made for the purpose of establishing the preferred location of compatible linear facilities and land uses.

(2) SPECIFICATIONS OF CORRIDOR.—On designation of a corridor under this section, the centerline, width, and compatible uses of a corridor shall be specified.

SEC. 351. CONSULTATION REGARDING ENERGY RIGHTS-OF-WAY ON PUBLIC LAND.

(a) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense with respect to lands under their respective jurisdictions, shall enter into a memorandum of understanding to coordinate all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary of Energy shall, to ensure timely review and permit decisions, coordinate such authorizations and reviews 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.

(2) CONTENTS.—The memorandum of understanding shall include provisions that—

(A) establish—

(i) a unified right-of-way application form; and

(ii) an administrative procedure for processing right-of-way applications, including lines of authority, steps in application processing, and timeframes for application processing;

(B) provide for coordination of planning relating to the granting of the rights-of-way;

(C) provide for 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

(D) provide for coordination of use of right-of-way stipulations to achieve consistency.

(b) NATURAL GAS PIPELINES.—

(1) IN GENERAL.—With respect to permitting activities for interstate natural gas pipelines, the May 2002 document entitled ''Interagency Agreement On Early Coordination Of Required Environmental And Historic Preservation Reviews Conducted In Conjunction With The Issuance Of Authorizations To Construct And Operate Interstate Natural Gas Pipelines Certificated By The Federal Energy Regulatory Commission'' shall constitute compliance with subsection (a).

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, agencies that are signatories to the document referred to in paragraph (1) shall transmit to Congress a report on how the agencies under the jurisdiction of the Secretaries are incorporating and implementing the provisions of the document referred to in paragraph (1).

(B) CONTENTS.—The report shall address—

(i) efforts to implement the provisions of the document referred to in paragraph (1);

(ii) whether the efforts have had a streamlining effect;

(iii) further improvements to the permitting process of the agency; and

(iv) recommendations for inclusion of State and tribal governments in a coordinated permitting process.

(c) DEFINITION OF UTILITY FACILITY.—In this section, the term ''utility facility'' means any privately, publicly, or cooperatively owned line, facility, or system—

(1) for the transportation of—

(A) oil, natural gas, synthetic liquid fuel, or gaseous fuel;

(B) any refined product produced from oil, natural gas, synthetic liquid fuel, or gaseous fuel; or

(C) products in support of the production of material referred to in subparagraph (A) or (B);

(2) for storage and terminal facilities in connection with the production of material referred to in paragraph (1); or

(3) for the generation, transmission, and distribution of electric energy.

SEC. 352. RENEWABLE ENERGY ON FEDERAL LAND.

(a) REPORT.—

(1) IN GENERAL.—Not later than 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 transmit to Congress a report that includes recommendations on opportunities to develop renewable energy on—

(A) public lands under the jurisdiction of the Secretary of the Interior; and

(B) National Forest System lands under the jurisdiction of the Secretary of Agriculture.

(2) CONTENTS.—The report shall include—

(A) 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;

(B) an analysis of—

(i) the use of rights-of-way, leases, or other methods to develop renewable energy on such lands;

(ii) the anticipated benefits of grants, loans, tax credits, or other provisions to promote renewable energy development on such lands; and

(iii) any issues that the Secretary of the Interior or the Secretary of Agriculture have encountered in managing renewable energy projects on such lands, believe are likely to arise in relation to the development of renewable energy on such lands;

(C) 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 the Department of Defense that would be suitable for development for renewable energy, and any recommended statutory and regulatory mechanisms for such development; and

(D) any recommendations relating to the issues addressed in the report.

(b) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, 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 energy (including tidal, wave, 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) TRANSMITTAL.—The results of the study shall be transmitted to Congress not later than 2 years after the date of enactment of this Act.

(c) GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LAND.—The Secretary of the Interior shall, not later than 10 years after the date of enactment of this Act, seek to approve renewable energy projects located (or to be located) on public lands with a generation capacity of at least 10,000 megawatts of electricity.

SEC. 353. ELECTRICITY TRANSMISSION LINE RIGHT-OF-WAY, CLEVELAND NATIONAL FOREST AND ADJACENT PUBLIC LAND, CALIFORNIA.

(a) ISSUANCE.—

(1) IN GENERAL.—Not later than 60 days after the completion of the environmental reviews under subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall issue all necessary grants, easements, permits, plan amendments, and other approvals to allow for the siting and construction of a high-voltage electricity transmission line right-of-way running approximately north to south through the Trabuco Ranger District of the Cleveland National Forest in the State of California and adjacent lands under the jurisdiction of the Bureau of Land Management and the Forest Service.

(2) INCLUSIONS.—The right-of-way approvals under paragraph (1) shall provide all necessary Federal authorization from the Secretary of the Interior and the Secretary of Agriculture for the routing, construction, operation, and maintenance of a 500-kilovolt transmission line capable of meeting the long-term electricity transmission needs of the region between the existing Valley-Serrano transmission line to the north and the Telega-Escondido transmission line to the south, and for connecting to future generating capacity that may be developed in the region.

(b) PROTECTION OF WILDERNESS AREAS.—The Secretary of the Interior and the Secretary of Agriculture shall not allow any portion of a transmission line right-of-way corridor identified in subsection (a) to enter any identified wilderness area in existence as of the date of enactment of this Act.

(c) ENVIRONMENTAL AND ADMINISTRATIVE REVIEWS.—

(1) DEPARTMENT OF INTERIOR OR LOCAL AGENCY.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall be the lead Federal agency with overall responsibility to ensure completion of required environmental and other reviews of the approvals to be issued under subsection (a).

(2) NATIONAL FOREST SYSTEM LAND.—For the portions of the corridor on National Forest System lands, the Secretary of Agriculture shall complete all required environmental reviews and administrative actions in coordination with the Secretary of the Interior.

(3) EXPEDITIOUS COMPLETION.—The reviews required for issuance of the approvals under subsection (a) shall be completed not later than 1 year after the date of the enactment of this Act.

(d) OTHER TERMS AND CONDITIONS.—The transmission line right-of-way shall be subject to such terms and conditions as the Secretary of the Interior and the Secretary of Agriculture consider necessary, based on the environmental reviews under subsection (c), to protect the value of historic, cultural, and natural resources under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture.

(e) PREFERENCE AMONG PROPOSALS.—The Secretary of the Interior and the Secretary of Agriculture shall give a preference to any application or preapplication proposal for a transmission line right-of-way referred to in subsection (a) that was submitted before December 31, 2002, over all other applications and proposals for the same or a similar right-of-way submitted on or after that date.

SEC. 354. SENSE OF CONGRESS REGARDING DEVELOPMENT OF MINERALS UNDER PADRE ISLAND NATIONAL SEASHORE.

(a) FINDINGS.—Congress finds the following:

(1) Pursuant to Public Law 87–712 (16 U.S.C. 459d et seq.; popularly known as the ''Federal Enabling Act'') and various deeds and actions under that Act, the United States is the owner of only the surface estate of certain lands constituting the Padre Island National Seashore.

(2) Ownership of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore was never acquired by the United States, and ownership of those interests is held by the State of Texas and private parties.

(3) Public Law 87–712 (16 U.S.C. 459d et seq.)—

(A) expressly contemplated that the United States would recognize the ownership and future development of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore by the owners and their mineral lessees; and

(B) recognized that approval of the State of Texas was required to create Padre Island National Seashore.

(4) Approval was given for the creation of Padre Island National Seashore by the State of Texas through Tex. Rev. Civ. Stat. Ann. Art. 6077(t) (Vernon 1970), which expressly recognized that development of the oil, gas, and other minerals in the subsurface of the lands constituting Padre Island National Seashore would be conducted with full rights of ingress and egress under the laws of the State of Texas.

(b) SENSE OF CONGRESS.—It is the sense of Congress that with regard to Federal law, any regulation of the development of oil, gas, or other minerals in the subsurface of the lands constituting Padre Island National Seashore should be made as if those lands retained the status that the lands had on September 27, 1962.

SEC. 355. ENCOURAGING PROHIBITION OF OFFSHORE DRILLING IN THE GREAT LAKES.

Congress encourages—

(1) the States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin to continue to prohibit offshore drilling in the Great Lakes for oil and gas; and

(2) the States of Indiana, Minnesota, and Ohio to enact a prohibition of such drilling.

SEC. 356. FINGER LAKES NATIONAL FOREST WITHDRAWAL.

All Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws; and

(2) disposition under all laws relating to oil and gas leasing.

SEC. 357. STUDY ON LEASE EXCHANGES IN THE ROCKY MOUNTAIN FRONT.

(a) DEFINITIONS.—For the purposes of this section:

(1) BADGER-TWO MEDICINE AREA.—The term ''Badger-Two Medicine Area'' means the Forest Service land located in—

(A) T. 31 N., R. 12–13 W.;

(B) T. 30 N., R. 11–13 W.;

(C) T. 29 N., R. 10–16 W.; and

(D) T. 28 N., R. 10–14 W.

(2) BLACKLEAF AREA.—The term ''Blackleaf Area'' means the Federal land owned by the Forest Service and Bureau of Land Management that is located in—

(A) T. 27 N., R. 9 W.;

(B) T. 26 N., R. 9–10 W.;

(C) T. 25 N., R. 8–10 W.; and

(D) T. 24 N., R. 8–9 W.

(3) ELIGIBLE LESSEE.—The term ''eligible lessee'' means a lessee under a nonproducing lease.

(4) NONPRODUCING LEASE.—The term ''nonproducing lease'' means a Federal oil or gas lease—

(A) that is in existence and in good standing on the date of enactment of this Act; and

(B) that is located in the Badger-Two Medicine Area or the Blackleaf Area.

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

(6) STATE.—The term ''State'' means the State of Montana.

(b) EVALUATION.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of the State, and the eligible lessees, shall evaluate opportunities for domestic oil and gas production through the exchange of the nonproducing leases.

(2) REQUIREMENTS.—In carrying out the evaluation under subsection (a), the Secretary shall—

(A) consider opportunities for domestic production of oil and gas through—

(i) the exchange of the nonproducing leases for oil and gas lease tracts of comparable value in the State; and

(ii) the issuance of bidding, royalty, or rental credits for Federal oil and gas leases in the State in exchange for the cancellation of the nonproducing leases;

(B) consider any other appropriate means to exchange, or provide compensation for the cancellation of, nonproducing leases, subject to the consent of the eligible lessees;

(C) consider the views of any interested persons, including the State;

(D) determine the level of interest of the eligible lessees in exchanging the nonproducing leases;

(E) assess the economic impact on the lessees and the State of lease exchange, lease cancellation, and final judicial or administrative decisions related to the nonproducing leases; and

(F) provide recommendations on—

(i) whether to pursue an exchange of the nonproducing leases;

(ii) any changes in laws (including regulations) that are necessary for the Secretary to carry out the exchange; and

(iii) any other appropriate means to exchange or provide compensation for the cancellation of a nonproducing lease, subject to the consent of the eligible lessee.

(c) VALUATION OF NONPRODUCING LEASES.—For the purpose of the evaluation under subsection (a), the value of a nonproducing lease shall be an amount equal to the difference between—

(1) the sum of—

(A) the amount paid by the eligible lessee for the nonproducing lease;

(B) any direct expenditures made by the eligible lessee before the transmittal of the report in subsection (c) associated with the exploration and development of the nonproducing lease; and

(C) interest on any amounts under subparagraphs (A) and (B) during the period beginning on the date on which the amount was paid and ending on the date on which credits are issued under subsection (b)(2)(A)(ii); and

(2) the sum of the revenues from the nonproducing lease.

(d) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall initiate the evaluation in subsection (b) and transmit to Congress a report on the evaluation.

SEC. 358. FEDERAL COALBED METHANE REGULATION.

Any State currently on the list of Affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13368(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act, the State takes, or prior to the date of enactment has taken, any of the actions required for removal from the list under such section 1339(b).

SEC. 359. LIVINGSTON PARISH MINERAL RIGHTS TRANSFER.

(a) AMENDMENTS.—Section 102 of Public Law 102–562 (106 Stat. 4234) is amended—

(1) by striking ''(a) IN GENERAL.—'';

(2) by striking ''and subject to the reservation in subsection (b),''; and

(3) by striking subsection (b).

(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of the Interior shall execute the legal instruments necessary to effectuate the amendment made by subsection (a)(3).

Subtitle D—Alaska Natural Gas Pipeline

SEC. 371. SHORT TITLE.

This subtitle may be cited as the ''Alaska Natural Gas Pipeline Act''.

SEC. 372. DEFINITIONS.

In this subtitle:

(1) ALASKA NATURAL GAS.—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) ALASKA NATURAL GAS TRANSPORTATION PROJECT.—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—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.); or

(B) section 373.

(3) ALASKA NATURAL GAS TRANSPORTATION SYSTEM.—The term ''Alaska natural gas transportation system'' means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.) and designated and described in section 2 of the President's decision.

(4) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(5) FEDERAL COORDINATOR.—The term ''Federal Coordinator'' means the head of the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects established by section 376(a).

(6) PRESIDENT'S DECISION.—The term ''President's decision'' means the decision and report to Congress on the Alaska natural gas transportation system—

(A) issued by the President on September 22, 1977, in accordance with section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e); and

(B) approved by Public Law 95–158 (15 U.S.C. 719f note; 91 Stat. 1268).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(8) STATE.—The term ''State'' means the State of Alaska.

SEC. 373. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission may, in accordance with 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) IN GENERAL.—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) CONSIDERATIONS.—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 the project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—Not later than 60 days after the date of issuance of the final environmental impact statement under section 374 for an Alaska natural gas transportation project, the Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity for the project under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section.

(d) PROHIBITION OF 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 land within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that—

(1) traverses land beneath navigable waters (as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301)) 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.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Commission shall issue regulations governing the conduct of open seasons for Alaska natural gas transportation projects (including procedures for the allocation of capacity).

(2) REGULATIONS.—The regulations referred to in paragraph (1) shall—

(A) include the criteria for and timing of any open seasons;

(B) promote competition in the exploration, development, and production of Alaska natural gas; and

(C) for any open season for capacity exceeding the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thomson units.

(3) APPLICABILITY.—Except in a case in which an expansion is ordered in accordance with section 375, 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 issued under paragraph (1).

(f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—

(1) IN GENERAL.—An application 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 in accordance with the Natural Gas Act (15 U.S.C. 717a et seq.).

(2) EXPANSION.—To the extent that a pipeline facility described in paragraph (1) includes the expansion of any facility constructed in accordance with the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), 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 the holder 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.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on a request by the State and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project by the State (or State designee) for the transportation of royalty gas of the State for the purpose of meeting local consumption needs within the State.

(2) EXCEPTION.—The rates of shippers of subscribed capacity on an Alaska natural gas transportation project described in paragraph (1), as in effect as of the date on which access under that paragraph is granted, shall not be increased as a result of such access.

(i) REGULATIONS.—The Commission may issue such regulations as are necessary to carry out this section.

SEC. 374. 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 373 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.—

(1) IN GENERAL.—The Commission—

(A) shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) shall be responsible for preparing the environmental impact 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 373.

(2) CONSOLIDATION OF STATEMENTS.—In carrying out paragraph (1), the Commission shall prepare a single environmental impact statement, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the Alaska natural gas transportation project covered by the environmental impact statement.

(c) OTHER AGENCIES.—

(1) IN GENERAL.—Each Federal agency considering an aspect of the construction and operation of an Alaska natural gas transportation project under section 373 shall—

(A) cooperate with the Commission; and

(B) comply with deadlines established by the Commission in the preparation of the environmental impact statement under this section.

(2) SATISFACTION OF NEPA REQUIREMENTS.—The environmental impact statement prepared under this section shall be adopted by each Federal agency described in paragraph (1) in satisfaction of the responsibilities of the Federal agency under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to the Alaska natural gas transportation project covered by the environmental impact statement.

(d) EXPEDITED PROCESS.—The Commission shall—

(1) not later than 1 year after the Commission determines that the application under section 373 with respect to an Alaska natural gas transportation project is complete, issue a draft environmental impact statement under this section; and

(2) not later than 180 days after the date of issuance of the draft environmental impact statement, issue a final environmental impact statement, unless the Commission for good cause determines that additional time is needed.

SEC. 375. PIPELINE EXPANSION.

(a) AUTHORITY.—With respect to any Alaska natural gas transportation project, on a request by 1 or more persons and after giving notice and an opportunity for a hearing, the

Commission may order the expansion of the Alaska natural gas project if the Commission determines that such an expansion is required by the present and future public convenience and necessity.

(b) RESPONSIBILITIES OF COMMISSION.—Before ordering an expansion under subsection (a), 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 do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;

(3) find that a 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 tariff of the Alaska natural gas transportation project in effect as of the date of the expansion;

(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 in accordance with this section shall be void unless the person requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within such reasonable period of time as the order may specify.

(d) LIMITATION.—Nothing in this section expands or otherwise affects any authority of the Commission with respect to any natural gas pipeline located outside the State.

(e) REGULATIONS.—The Commission may issue such regulations as are necessary to carry out this section.

SEC. 376. 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.—

(1) APPOINTMENT.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall be appointed by the President, by and with the advice and consent of the Senate, to serve a term to last until 1 year following the completion of the project referred to in section 373.

(2) COMPENSATION.—The Federal Coordinator shall 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) EXPEDITED REVIEWS AND ACTIONS.—All reviews conducted and actions taken by any Federal 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 under this subtitle.

(2) PROHIBITION OF CERTAIN TERMS AND CONDITIONS.—No Federal agency may include in any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project any term or condition that may be permitted, but is not required, by any applicable law if the Federal Coordinator determines that the term or condition would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the Alaska natural gas transportation project.

(3) PROHIBITION OF CERTAIN ACTIONS.—Unless required by law, no Federal 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 the action would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the Alaska natural gas transportation project.

(4) LIMITATION.—The Federal Coordinator shall not have authority to—

(A) override—

(i) the implementation or enforcement of regulations issued by the Commission under section 373; or

(ii) an order by the Commission to expand the project under section 375; or

(B) impose any terms, conditions, or requirements in addition to those imposed by the Commission or any agency with respect to construction and operation, or an expansion of, the project.

(e) STATE COORDINATION.—

(1) IN GENERAL.—The Federal Coordinator and the State shall enter into a joint surveillance and monitoring agreement similar to the agreement in effect during construction of the Trans-Alaska Pipeline, to be approved by the President and the Governor of the State, for the purpose of monitoring the construction of the Alaska natural gas transportation project.

(2) PRIMARY RESPONSIBILITY.—With respect to an Alaska natural gas transportation project—

(A) the Federal Government shall have primary surveillance and monitoring responsibility in areas where the Alaska natural gas transportation project crosses Federal land or private land; and

(B) the State government shall have primary surveillance and monitoring responsibility in areas where the Alaska natural gas transportation project crosses State land.

(f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—On 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 under section 3012(b) of the Energy Policy Act of 1992 (15 U.S.C. 719e note; Public Law 102–486), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33663), Executive Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36927), and section 5 of the President's decision, shall be transferred to the Federal Coordinator.

(g) TEMPORARY AUTHORITY.—The functions, authorities, duties, and responsibilities of the Federal Coordinator shall be vested in the Secretary until the later of the appointment of the Federal Coordinator by the President, or 18 months after the date of enactment of this Act.

SEC. 377. JUDICIAL REVIEW.

(a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court 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 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle.

(b) DEADLINE FOR FILING CLAIM.—A claim 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 OF THE ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976.—Section 10(c) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended—

(1) by striking ''(c)(1) A claim'' and inserting the following:

''(c) JURISDICTION.—

''(1) SPECIAL COURTS.—

''(A) IN GENERAL.—A claim'';

(2) by striking ''Such court shall have'' and inserting the following:

''(B) EXCLUSIVE JURISDICTION.—The Special Court shall have'';

(3) by inserting after paragraph (1) the following:

''(2) EXPEDITED CONSIDERATION.—The Special Court shall set any action brought under this section for expedited consideration, taking into account the national interest described in section 2.''; and

(4) in paragraph (3), by striking ''(3) The enactment'' and inserting the following:

''(3) ENVIRONMENTAL IMPACT STATEMENTS.—The enactment''.

SEC. 378. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.

(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from an Alaska natural gas transportation project for delivery to consumers within the State—

(1) 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

(2) shall not be subject to the jurisdiction of the Commission.

(b) ADDITIONAL PIPELINES.—Except as provided in section 373(d), nothing in this subtitle shall preclude or otherwise affect a future natural 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 for consumption within or distribution outside the State.

(c) RATE COORDINATION.—

(1) IN GENERAL.—In accordance with the Natural Gas Act (15 U.S.C. 717a et seq.), the Commission shall establish rates for the transportation of natural gas on any Alaska natural gas transportation project.

(2) CONSULTATION.—In carrying out paragraph (1), the Commission, in accordance with section 17(b) of the Natural Gas Act (15 U.S.C. 717p(b)), shall consult with the State 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.

SEC. 379. 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 by the date that is 18 months after the date of enactment of this Act, the Secretary shall conduct a study of alternative approaches to the construction and operation of such an Alaska natural gas transportation project.

(b) SCOPE OF STUDY.—The study under subsection (a) shall take into consideration the feasibility of—

(1) establishing a Federal Government corporation to construct an Alaska natural gas transportation project; and

(2) securing alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the Alaska natural gas transportation project.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Chief of Engineers).

(d) REPORT.—On completion of any study under subsection (a), the Secretary shall submit to Congress a report that describes—

(1) the results of the study; and

(2) any recommendations of the Secretary (including proposals for legislation to implement the recommendations).

SEC. 380. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.

(a) SAVINGS CLAUSE.—Nothing in this subtitle affects—

(1) any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g); or

(2) any Presidential finding or waiver issued in accordance with that Act.

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or rescind any term or condition included in the certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), if the addition, amendment, or rescission—

(1) would not compel any 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

(2) would not otherwise prevent or impair in any significant respect the expeditious construction and initial operation of the Alaska natural gas transportation system.

(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary 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. 381. SENSE OF CONGRESS CONCERNING USE OF STEEL MANUFACTURED IN NORTH AMERICA NEGOTIATION OF A PROJECT LABOR AGREEMENT.

It is the sense of Congress that—

(1) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada; and

(2) to maximize those benefits, the sponsors of the Alaska natural gas transportation project should make every effort to—

(A) use steel that is manufactured in North America; and

(B) negotiate a project labor agreement to expedite construction of the pipeline.

SEC. 382. SENSE OF CONGRESS AND STUDY CONCERNING PARTICIPATION BY SMALL BUSINESS CONCERNS.

(a) DEFINITION OF SMALL BUSINESS CONCERN.—In this section, the term ''small business concern'' has the meaning given the term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada; and

(2) to maximize those benefits, the sponsors of the Alaska natural gas transportation project should maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(c) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the extent to which small business concerns participate in the construction of oil and gas pipelines in the United States.

(2) REPORT.—Not later that 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report that describes results of the study under paragraph (1).

(3) UPDATES.—The Comptroller General shall—

(A) update the study at least once every 5 years until construction of an Alaska natural gas transportation project is completed; and

(B) on completion of each update, submit to Congress a report containing the results of the update.

SEC. 383. ALASKA PIPELINE CONSTRUCTION TRAINING PROGRAM.

(a) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Labor (in this section referred to as the ''Secretary'') shall make grants to the Alaska Workforce Investment Board—

(A) to recruit and train adult and dislocated workers in Alaska, including Alaska Natives, in the skills required to construct and operate an Alaska gas pipeline system; and

(B) for the design and construction of a training facility to be located in Fairbanks, Alaska, to support an Alaska gas pipeline training program.

(2) COORDINATION WITH EXISTING PROGRAMS.—The training program established with the grants authorized under paragraph (1) shall be consistent with the vision and goals set forth in the State of Alaska Unified Plan, as developed pursuant to the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(b) REQUIREMENTS FOR GRANTS.—The Secretary shall make a grant under subsection (a) only if—

(1) the Governor of the State of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that the construction of the Alaska natural gas pipeline system will commence by the date that is 2 years after the date of the certification; and

(2) the Secretary of Energy concurs in writing to the Secretary with the certification made under paragraph (1) after considering—

(A) the status of necessary Federal and State permits;

(B) the availability of financing for the Alaska natural gas pipeline project; and

(C) other relevant factors.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $20,000,000. Not more than 15 percent of the funds may be used for the facility described in subsection (a)(1)(B).

SEC. 384. SENSE OF CONGRESS CONCERNING 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 Mackenzie 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 Mackenzie Delta project means it will most likely be completed before the Alaska Natural Gas Pipeline;

(5) natural gas production in the 48 contiguous States and Canada will not be able to meet all domestic demand in the coming decades; and

(6) as a result, natural gas delivered from Alaskan North Slope will not displace or reduce the commercial viability of Canadian natural gas produced from the Mackenzie Delta or production from the 48 contiguous States.

SEC. 385. SENSE OF CONGRESS CONCERNING ALASKAN OWNERSHIP.

It is the sense of Congress that—

(1) Alaska Native Regional Corporations, companies owned and operated by Alaskans, and individual Alaskans should have the opportunity to own shares of the Alaska natural gas pipeline in a way that promotes economic development for the State; and

(2) to facilitate economic development in the State, all project sponsors should negotiate in good faith with any willing Alaskan person that desires to be involved in the project.

SEC. 386. LOAN GUARANTEES.

(a) AUTHORITY.—(1) The Secretary may enter into agreements with 1 or more holders of a certificate of public convenience and necessity issued under section 373(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 373(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 under this section, 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.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) CLEAN COAL POWER INITIATIVE.—There are authorized to be appropriated to the Secretary of Energy (referred to in this title as the ''Secretary'') to carry out the activities authorized by this subtitle $200,000,000 for each of fiscal years 2004 through 2012, to remain available until expended.

(b) REPORT.—The Secretary shall submit to Congress the report required by this subsection not later than March 31, 2005. The report shall include, with respect to subsection (a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in 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.

SEC. 402. 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 commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In allocating the funds made available under section 401(a), the Secretary shall ensure that at least 60 percent of the funds are used only for projects on coal-based gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction, and hybrid gasification/combustion.

(B) TECHNICAL MILESTONES.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve. The technical milestones shall become more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit not more than .05 lbs of NO_x per million Btu;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of—

(I) 60 percent for coal of more than 9,000 Btu;

(II) 59 percent for coal of 7,000 to 9,000 Btu; and

(III) 50 percent for coal of less than 7,000 Btu.

(2) OTHER PROJECTS.—The Secretary shall periodically set technical milestones and ensure that up to 40 percent of the funds appropriated pursuant to section 401(a) are used for projects not described in paragraph (1). The milestones shall specify the emission and thermal efficiency levels that projects funded under this paragraph shall be designed to and reasonably expected to achieve. The technical milestones shall become more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NO_x per million Btu;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of—

(i) 45 percent for coal of more than 9,000 Btu;

(ii) 44 percent for coal of 7,000 to 9,000 Btu; and

(iii) 40 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2), 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.

(4) EXISTING UNITS.—In the case of projects at units in existence on the date of enactment of this Act, in lieu of the thermal efficiency requirements set forth in paragraph (1)(B)(iv) and (2)(D), the milestones 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.

(5) PERMITTED USES.—In carrying out this subtitle, the Secretary may fund projects that include, as part of the project, the separation and capture of carbon dioxide.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this subtitle unless the recipient documents 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 to enable 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.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) 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 in order to

maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of the date of enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary under this subtitle shall not exceed 50 percent.

(f) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by 1 or more facilities receiving assistance under this subtitle.

SEC. 403. REPORT.

Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2012, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1) the technical milestones set forth in section 402 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 402; and

(2) the status of projects funded under this subtitle.

SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 401, 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 show the greatest potential for advancing new clean coal technologies.

Subtitle B—Clean Power Projects

SEC. 411. 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.

SEC. 412. COAL GASIFICATION.

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology of at least 400 megawatts in capacity that produces power at competitive rates in deregulated energy generation markets and that does not receive any subsidy (direct or indirect) from ratepayers.

SEC. 413. INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY.

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State Public Utility Commission to sell at least 450 megawatts of output to a utility.

SEC. 414. PETROLEUM COKE GASIFICATION.

The Secretary is authorized to provide loan guarantees for at least 1 petroleum coke gasification polygeneration project.

SEC. 415. INTEGRATED COAL/RENEWABLE ENERGY SYSTEM.

The Secretary is authorized, subject to the availability of appropriations, to provide loan guarantees for a project to produce energy from coal of less than 7000 btu/lb using appropriate advanced integrated gasification combined cycle technology, including repowering of existing facilities, that is combined with wind and other renewable sources, minimizes and offers the potential to sequester carbon dioxide emissions, and provides a ready source of hydrogen for near-site fuel cell demonstrations. The facility may be built in stages, combined output shall be at least 200 megawatts at successively more competitive rates, and the facility shall be located in the Upper Great Plains. Section 402(b) technical criteria apply, and the Federal cost share shall not exceed 50 percent. The loan guarantees provided under this section do not preclude the facility from receiving an allocation for investment tax credits under section 48A of the Internal Revenue Code of 1986. Utilizing this investment tax credit does not prohibit the use of other Clean Coal Program funding.

SEC. 416. ELECTRON SCRUBBING DEMONSTRATION.

The Secretary shall use $5,000,000 from amounts appropriated to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

Subtitle C—Federal Coal Leases

SEC. 421. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended—

(1) in the first sentence—

(A) by striking ''Any person'' and inserting ''(a) Any person'';

(B) by inserting a comma after ''may''; and

(C) by striking ''upon'' and all that follows through the period and inserting the following: ''upon a finding by the Secretary that the lease—

''(1) would be in the interest of the United States;

''(2) would not displace a competitive interest in the land; and

''(3) would not include land 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 land or coal deposits contiguous or cornering to those embraced in the lease, but in no event shall the total area added by any modifications to an existing coal lease exceed 1280 acres, or add acreage larger than the acreage in the original lease.'';

(2) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(b) The Secretary''; and

(3) in the third sentence, by striking ''The minimum'' and inserting the following:

''(c) The minimum''.

SEC. 422. 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 40 years if the Secretary determines that the longer period—

''(i) will ensure the maximum economic recovery of a coal deposit; or

''(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.''.

SEC. 423. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended to read as follows:

''(b)(1) Each lease shall be subjected to the condition of diligent development and continued operation of the mine or mines, except in a case in which operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

''(2)(A) The Secretary of the Interior may suspend the condition of continued operation upon the payment of advance royalties, if the Secretary determines that the public interest will be served by the suspension.

''(B) Advance royalties required under subparagraph (A) shall be computed based on—

''(i) the average price for coal sold in the spot market from the same region during the last month of each applicable continued operation year; or

''(ii) by using other methods established by the Secretary of the Interior to capture the commercial value of coal,

and based on commercial quantities, as defined by regulation by the Secretary of the Interior.

''(C) The aggregate number of years during the initial and any extended term of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20.

''(3) 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 the lease, to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

''(4) The Secretary may, upon 6 months' notice to a lessee, cease to accept advance royalties in lieu of the requirement of continued operation.

''(5) Nothing in this subsection affects the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.''.

SEC. 424. 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 in the first sentence by striking ''and not later than three years after a lease is issued,''.

SEC. 425. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

''(4)(A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

''(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance for a coal lease issued before the date of the enactment of the Energy Policy Act of 2003 only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

''(5) Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due—

''(A) the lease shall automatically terminate; and

''(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.''.

SEC. 426. INVENTORY REQUIREMENT.

(a) REVIEW OF ASSESSMENTS.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary, shall review coal assessments and other available data to identify—

(A) public lands, other than National Park lands, with coal resources;

(B) the extent and nature of any restrictions or impediments to the development of coal resources on public lands identified under subparagraph (A); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) DEFINITIONS.—In this subsection:

(A) COMPLIANT COAL.—The term ''compliant coal'' means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu.

(B) SUPERCOMPLIANT COAL.—The term ''supercompliant coal'' means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) COMPLETION AND UPDATING OF THE INVENTORY.—The Secretary of the Interior—

(1) shall complete the inventory under subsection (a)(1) by not later than 2 years after the date of the enactment of this Act; and

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) REPORT.—The Secretary of the Interior shall submit to Congress, and make publicly available—

(1) a report containing the inventory under this section by not later than 2 years after the effective date of this section; and

(2) each update of that inventory.

SEC. 427. APPLICATION OF AMENDMENTS.

The amendments made by this subtitle apply—

(1) with respect to any coal lease issued on or after the date of enactment of this Act; and

(2) with respect to any coal lease issued before the date of enactment of this Act, upon the earlier of—

(A) the date of readjustment of the lease as provided for by section 7(a) of the Mineral Leasing Act (30 U.S.C. 207(a)); or

(B) the date the lessee requests such application.

Subtitle D—Coal and Related Programs

SEC. 441. CLEAN AIR COAL PROGRAM.

(a) AMENDMENT.—The Energy Policy Act of 1992 is amended by adding the following new title at the end thereof:

''TITLE XXXI—CLEAN AIR COAL PROGRAM

''SEC. 3101. FINDINGS; PURPOSES; DEFINITIONS.

''(a) FINDINGS.—The Congress finds that—

''(1) new environmental regulations present additional challenges for coal-fired electrical generation in the private marketplace; and

''(2) the Department of Energy, in cooperation with industry, has already fully developed and commercialized several new clean-coal technologies that will allow the clean use of coal.

''(b) PURPOSES.—The purposes of this title are to—

''(1) promote national energy policy and energy security, diversity, and economic competitiveness benefits that result from the increased use of coal;

''(2) mitigate financial risks, reduce the cost, and increase the marketplace acceptance of the new clean coal technologies; and

''(3) advance the deployment of pollution control equipment to meet the current and future obligations of coal-fired generation units regulated under the Clean Air Act (42 U.S.C. 7402 and following).

''SEC. 3102. AUTHORIZATION OF PROGRAM.

''The Secretary shall carry out a program to facilitate production and generation of coal-based power and the installation of pollution control equipment.

''SEC. 3103. AUTHORIZATION OF APPROPRIATIONS.

''(a) POLLUTION CONTROL PROJECTS.—There are authorized to be appropriated to the Secretary $300,000,000 for fiscal year 2005, $100,000,000 for fiscal year 2006, $40,000,000 for fiscal year 2007, $30,000,000 for fiscal year 2008, and $30,000,000 for fiscal year 2009, to remain available until expended, for carrying out the program for pollution control projects, which may include—

''(1) pollution control equipment and processes for the control of mercury air emissions;

''(2) pollution control equipment and processes for the control of nitrogen dioxide air emissions or sulfur dioxide emissions;

''(3) pollution control equipment and processes for the mitigation or collection of more than one pollutant;

''(4) advanced combustion technology for the control of at least two pollutants, including mercury, particulate matter, nitrogen oxides, and sulfur dioxide, which may also be designed to improve the energy efficiency of the unit; and

''(5) advanced pollution control equipment and processes designed to allow use of the waste byproducts or other byproducts of the equipment or an electrical generation unit designed to allow the use of byproducts.

Funds appropriated under this subsection which are not awarded before fiscal year 2011 may be applied to projects under subsection (b), in addition to amounts authorized under subsection (b).

''(b) GENERATION PROJECTS.—There are authorized to be appropriated to the Secretary $150,000,000 for fiscal year 2006, $250,000,000 for each of the fiscal years 2007 through 2011, and $100,000,000 for fiscal year 2012, to remain available until expended, for generation projects and air pollution control projects. Such projects may include—

''(1) coal-based electrical generation equipment and processes, including gasification combined cycle or other coal-based generation equipment and processes;

''(2) associated environmental control equipment, that will be cost-effective and that is designed to meet anticipated regulatory requirements;

''(3) coal-based electrical generation equipment and processes, including gasification fuel cells, gasification coproduction, and hybrid gasification/combustion projects; and

''(4) advanced coal-based electrical generation equipment and processes, including oxidation combustion techniques, ultra-supercritical boilers, and chemical looping, which the Secretary determines will be cost-effective and could substantially contribute to meeting anticipated environmental or energy needs.

''(c) LIMITATION.—Funds placed at risk during any fiscal year for Federal loans or loan guarantees pursuant to this title may not exceed 30 percent of the total funds obligated under this title.

''SEC. 3104. AIR POLLUTION CONTROL PROJECT CRITERIA.

''The Secretary shall pursuant to authorizations contained in section 3103 provide funding for air pollution control projects designed to facilitate compliance with Federal and State environmental regulations, including any regulation that may be established with respect to mercury.

''SEC. 3105. CRITERIA FOR GENERATION PROJECTS.

''(a) CRITERIA.—The Secretary shall establish criteria on which selection of individual projects described in section 3103(b) should be based. The Secretary may modify the criteria as appropriate to reflect improvements in equipment, except that the criteria shall not be modified to be less stringent. These selection criteria shall include—

''(1) prioritization of projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas;

''(2) prioritization of projects that result in the repowering or replacement of older, less efficient units;

''(3) documented broad interest in the procurement of the equipment and utilization of the processes used in the projects by electrical generator owners or operators;

''(4) equipment and processes beginning in 2005 through 2010 that are projected to achieve an thermal efficiency of—

''(A) 40 percent for coal of more than 9,000 Btu per pound based on higher heating values;

''(B) 38 percent for coal of 7,000 to 9,000 Btu per pound based on higher heating values; and

''(C) 36 percent for coal of less than 7,000 Btu per pound based on higher heating values,

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph; and

''(5) equipment and processes beginning in 2011 and 2012 that are projected to achieve an thermal efficiency of—

''(A) 45 percent for coal of more than 9,000 Btu per pound based on higher heating values;

''(B) 44 percent for coal of 7,000 to 9,000 Btu per pound based on higher heating values; and

''(C) 40 percent for coal of less than 7,000 Btu per pound based on higher heating values,

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph.

''(b) SELECTION.—(1) In selecting the projects, up to 25 percent of the projects selected may be either coproduction or cogeneration or other gasification projects, but at least 25 percent of the projects shall be for the sole purpose of electrical generation, and priority should be given to equipment and projects less than 600 MW to foster and promote standard designs.

''(2) The Secretary shall give priority to projects that have been developed and demonstrated that are not yet cost competitive, and for coal energy generation projects that advance efficiency, environmental performance, or cost competitiveness significantly beyond the level of pollution control equipment that is in operation on a full scale.

''SEC. 3106. FINANCIAL CRITERIA.

''(a) IN GENERAL.—The Secretary shall only provide financial assistance to projects that meet the requirements of sections 3103 and 3104 and are likely to—

''(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy; and

''(2) improve the competitiveness of coal in order to maintain a diversity of domestic fuel choices in the United States to meet electricity generation requirements.

''(b) CONDITIONS.—The Secretary shall not provide a funding award under this title unless—

''(1) the award recipient is financially viable without the receipt of additional Federal funding; and

''(2) the recipient provides sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively.

''(c) EQUAL ACCESS.—The Secretary shall, to the extent practical, utilize cooperative

agreement, loan guarantee, and direct Federal loan mechanisms designed to ensure that all electrical generation owners have equal access to these technology deployment incentives. The Secretary shall develop and direct a competitive solicitation process for the selection of technologies and projects under this title.

"SEC. 3107. FEDERAL SHARE.

''The Federal share of the cost of a coal or related technology project funded by the Secretary under this title shall not exceed 50 percent. For purposes of this title, Federal funding includes only appropriated funds.

"SEC. 3108. APPLICABILITY.

''No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of the Clean Air Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of the Clean Air Act (42 U.S.C. 7501) 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.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end the following:

''TITLE XXXI CLEAN AIR COAL PROGRAM

''Sec. 3101. Findings; purposes; definitions.
''Sec. 3102. Authorization of program.
''Sec. 3103. Authorization of appropriations.
''Sec. 3104. Air pollution control project criteria.
''Sec. 3105. Criteria for generation projects.
''Sec. 3106. Financial criteria.
''Sec. 3107. Federal share.
''Sec. 3108. Applicability.''.

TITLE V—INDIAN ENERGY

SEC. 501. SHORT TITLE.

This title may be cited as the ''Indian Tribal Energy Development and Self-Determination Act of 2004''.

SEC. 502. 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, in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, shall 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) bring electrical power and service to Indian land and the homes of tribal members located on Indian lands or acquired, constructed, or improved (in whole or in part) with Federal funds.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. 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.''.

(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. 503. INDIAN ENERGY.

(a) IN GENERAL.—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, Department of Energy.

''(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 or an individual Indian;

''(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

''(iii) by a dependent Indian community; and

''(C) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land.

''(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; and

''(C) 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), except that the term 'Indian tribe', for the purpose of paragraph (11) and sections 2603(b)(3) and 2604, shall not include any Native Corporation.

''(5) The term '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 or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

''(6) 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).

''(7) 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.

''(8) The term 'Program' means the Indian energy resource development program established under section 2602(a).

''(9) The term 'Secretary' means the Secretary of the Interior.

''(10) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance authorized by section 2602.

''(11) The term 'tribal land' means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States or which is subject to a restriction against alienation under laws of the United States.

"SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

''(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

''(1) 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 consenting Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

''(2) In carrying out the Program, the Secretary shall—

''(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

''(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

''(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources.

''(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2014.

''(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM.—

''(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.

''(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

''(A) energy, energy efficiency, and energy conservation programs;

''(B) studies and other activities supporting tribal acquisitions 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 subsection.

''(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 of Energy may issue such regulations as necessary to carry out this subsection.

''(5) There are authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2004 through 2014.

''(c) DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM.—

''(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 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 guarantee under this subsection shall be made by—

''(A) a financial institution subject to examination by the Secretary of Energy; or

''(B) an Indian tribe, from funds of the Indian tribe.

''(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

''(4) The Secretary of Energy may issue such regulations as the Secretary of Energy 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 of Energy shall report to Congress on the financing requirements of Indian tribes for energy development on Indian land.

''(d) FEDERAL AGENCIES-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; or

''(B) obtain less than prevailing market terms and conditions.

''SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

''(a) GRANTS.—The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

''(b) USE OF FUNDS.—Funds from a grant provided under this section may be used—

''(1) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

''(2) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

''(3) by an Indian tribe (other than an Indian Tribe in Alaska except the Metlakatla Indian Community) for the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development and the development of technical infrastructure to protect the environment under applicable law; or

''(4) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure to protect the environment under applicable law; and

''(5) by an Indian tribe for the training of employees that—

''(A) are engaged in the development of energy resources on Indian land; or

''(B) are responsible for protecting the environment.

''(c) OTHER ASSISTANCE.—In carrying out the obligations of the United States under this title, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that upon the request of an Indian tribe, the Indian tribe shall have available scientific and technical information and expertise, for use in the Indian tribe's regulation, development, and management of energy resources on Indian land. The Secretary may fulfill this responsibility either directly, through the use of Federal officials, or indirectly, by providing financial assistance to the Indian tribe to secure independent assistance.

''SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

''(a) LEASES AND BUSINESS AGREEMENTS.—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 resource development on tribal land, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of the Indian tribe's energy mineral resources located 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) such 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 pursuant to 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 resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

''(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to the provisions required by subsection (e)(2)(D)(i)).

''(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without 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 the periodic review and evaluation of the Indian tribe's activities under such agreement described in subparagraphs (D) and (E) of subsection (e)(2)).

''(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

''(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business agreement, or right-of-way is authorized by the provisions of a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

''(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

''(1) On issuance of regulations under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

''(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), or not later than 60 days after the Secretary receives a revised tribal energy resource agreement submitted by an Indian tribe under paragraph (4)(C), (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;

''(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

''(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

''(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 the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

''(V) address technical or other relevant requirements;

''(VI) establish requirements for environmental review in accordance with subparagraph (C);

''(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 off-reservation impacts, if any, identified pursuant to the provisions required under subparagraph (C)(i);

''(XI) describe the remedies for breach of the lease, business agreement, or right-of-way;

''(XII) require each lease, business agreement, and right-of-way to include a statement that, in the event that any of its provisions violates an express term or requirement set forth in the tribal energy resource agreement pursuant to which it was executed—

''(aa) such provision shall be null and void; and

''(bb) if the Secretary determines such provision to be material, the Secretary shall have the authority to suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe;

''(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the executed lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations adopted pursuant to this subsection; and

''(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal remedies that must be exhausted before a petition may be submitted to the Secretary pursuant to paragraph (7)(B).

''(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 the environmental impacts of the proposed action before tribal approval 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 a periodic review and evaluation to monitor the performance of the Indian tribe's activities associated with the development of energy resources under the tribal energy resource agreement; and

''(ii) when such review and evaluation result in a finding by the Secretary of imminent jeopardy to a physical trust asset arising from a violation of the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take appropriate actions determined by the Secretary to be necessary to protect such asset, which actions may include reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and conditions that gave rise to such jeopardy have been corrected.

''(E) The periodic review and evaluation described in subparagraph (D) shall be conducted on an annual basis, except that, after the third such annual review and evaluation, the Secretary and the Indian tribe may mutually agree to amend the tribal energy resource agreement to authorize the review and evaluation required by subparagraph (D) to be conducted once every 2 years.

''(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted for approval under paragraph (1). The Secretary's review of a tribal energy resource agreement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be limited to the direct effects of that approval.

''(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date of disapproval—

''(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 paragraph (8), 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 payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to enforce the terms of, and protect the Indian tribe's rights under, the lease, business agreement, or right-of-way.

''(6)(A) For purposes of the activities to be undertaken by the Secretary pursuant to this section, the Secretary shall—

''(i) carry out such activities in a manner consistent with the trust responsibility of the United States relating to mineral and other trust resources; and

''(ii) act in good faith and in the best interests of the Indian tribes.

''(B) Subject to the provisions of subsections (a)(2), (b), and (c) waiving the requirement of Secretarial approval of leases, business agreements, and rights-of-way executed pursuant to tribal energy resource agreements approved under this section, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship or from any treaties, statutes, and other laws of the United States, Executive Orders, or agreements between the United States and any Indian tribe.

''(C) The Secretary shall continue to have a trust obligation to ensure that the rights and interests of an Indian tribe are protected in the event that—

''(i) any other party to any such lease, business agreement, or right-of-way violates any applicable provision of Federal law or the terms of any lease, business agreement, or right-of-way under this section; or

''(ii) any provision in such lease, business agreement, or right-of-way violates any express provision or requirement set forth in the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed.

''(D) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any of the negotiated terms of, or any losses resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved by the Secretary under paragraph (2). For the purpose of this subparagraph, the term 'negotiated terms' means any terms or provisions that are negotiated by an Indian tribe and any other party or parties to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

''(7)(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 environmental 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 paragraph (8), 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 by the Secretary under paragraph (2).

''(C)(i) Not later than 120 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall determine whether the Indian tribe is not in compliance with the tribal energy resource agreement, as alleged in the petition.

''(ii) The Secretary may adopt procedures under paragraph (8) authorizing an extension of time, not to exceed 120 days, for making the determination under clause (i) in any case in which the Secretary determines that additional time is necessary to evaluate the allegations of the petition.

''(iii) Subject to subparagraph (D), if the Secretary determines that the Indian tribe is not in compliance with the tribal energy resource agreement as alleged in the petition, the Secretary shall take such action as is necessary to ensure compliance with the provisions of the tribal energy resource agreement, which action may include—

''(I) temporarily suspending some or all activities under a lease, business agreement, or right-of-way under this section until the Indian tribe or such activities are in compliance with the provisions of the approved tribal energy resource agreement; or

''(II) rescinding approval of all or part of the tribal energy resource agreement, and if all of such agreement is rescinded, reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsections (a) and (b).

''(D) Prior to seeking to ensure compliance with the provisions of the tribal energy resource agreement of an Indian tribe under subparagraph (C)(iii), 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 violations together with the written determination; and

''(iii) before taking any action described in subparagraph (C)(iii) 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) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations issued by the Secretary.

''(8) Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2004, the Secretary shall issue 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;

''(B) a process and requirements in accordance with which an Indian tribe may—

''(i) voluntarily rescind a 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;

''(C) provisions setting forth the scope of, and procedures for, the periodic review and evaluation described in subparagraphs (D) and (E) of paragraph (2), including provisions for review of transactions, reports, site inspections, and any other review activities the Secretary determines to be appropriate; and

''(D) provisions defining final agency actions after exhaustion of administrative appeals from determinations of the Secretary under paragraph (7).

''(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

''(1) any Federal environment 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.) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2004 through 2014 to implement the provisions of this section and to make grants or provide other appropriate assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal energy resource agreements in accordance with the provisions of this section.

''SEC. 2605. 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 2004, the Secretary shall submit to 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. 2606. 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 nonfederally generated 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 2004, the Secretary of Energy shall submit to 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, or used for the benefit of, 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 deliver Federal power.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

''SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

''(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, 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 and projected requirements for firming power and the patterns of availability and use of firming power;

''(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 the Energy Policy Act of 2003, 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 use of combined 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 energy resource development organization 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) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000, to remain available until expended.

''(2) NONREIMBURSABILITY.—Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.''.

(b) CONFORMING AMENDMENTS.—The table of contents for the Energy Policy Act of 1992 is amended by striking the items relating to title XXVI and inserting the following:

''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. Indian mineral development review.
''Sec. 2606. Federal Power Marketing Administrations.
''Sec. 2607. Wind and hydropower feasibility study.''.

SEC. 504. 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 217 of the Department of Energy Organization Act, as added by section 502 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. 505. 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. 506. CONSULTATION WITH INDIAN TRIBES.

In carrying out this title and the amendments made by this title, 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 VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 601. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2003''.

SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''December 31, 2003'' each place it appears and inserting ''December 31, 2023''.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2023''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''December 31, 2023''.

SEC. 603. 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 ''$95,800,000''; 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 ''August 20, 2003''; and

(C) in subparagraph (A), by striking ''such date of enactment'' and inserting ''August 20, 2003''.

SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d. 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 170 d. 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 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) by striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(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 170 e.(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. 606. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''December 31, 2019''.

SEC. 607. INFLATION ADJUSTMENT.

Section 170 t. 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 inserting 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. 608. TREATMENT OF MODULAR REACTORS.

Section 170 b. 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. 609. APPLICABILITY.

The amendments made by sections 603, 604, and 605 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 610. PROHIBITION ON ASSUMPTION BY UNITED STATES GOVERNMENT OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

''u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.—Notwithstanding this section or any other provision of law, no officer of the United States or of any department, agency, or instrumentality of the United States Government may enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to directly or indirectly impose liability on the United States Government, or any department, agency, or instrumentality of the United States Government, or to otherwise directly or indirectly require an indemnity by the United States Government, for nuclear incidents occurring in connection with the design, construction, or operation of a production facility or utilization facility in any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism). This subsection shall not apply to nuclear incidents occurring as a result of missions, carried out under the direction of the Secretary of Energy, the Secretary of Defense, or the Secretary of State, that are necessary to safely secure, store, transport, or remove nuclear materials for nuclear safety or nonproliferation purposes.''.

SEC. 611. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(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 1-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 (42 U.S.C. 2011 et seq.) occurring under a contract entered into before the date of enactment of this section.

Subtitle B—General Nuclear Matters

SEC. 621. LICENSES.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by inserting ''from the authorization to commence operations'' after ''forty years''.

SEC. 622. 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 Nuclear Regulatory 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 nuclear safety regulatory skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Nuclear Regulatory Commission to carry out this section $1,000,000 for each of fiscal years 2004 through 2008.

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

SEC. 623. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking ''for or is issued'' and all that follows through ''1702'' and inserting ''to the Commission for, or is issued by the Commission, a license or certificate'';

(2) by striking ''483a'' and inserting ''9701''; and

(3) by striking '', of applicants for, or holders of, such licenses or certificates''.

SEC. 624. 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. 625. ANTITRUST REVIEW.

Section 105 c. 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 or production facility under section 103 or 104 b. that is filed on or after the date of enactment of this paragraph.''.

SEC. 626. DECOMMISSIONING.

Section 161 i. 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 104 b., 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''.

SEC. 627. LIMITATION ON LEGAL FEE REIMBURSEMENT.

The Department of Energy shall not, except as required under a contract entered into before the date of enactment of this Act, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

(1) an adverse determination on the merits with respect to such complaint against the contractor or subcontractor by the Director of the Department of Energy's Office of Hearings and Appeals pursuant to part 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851); or

(2) an adverse final judgment by any State or Federal court with respect to such complaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, United States Code, section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851), or any comparable State law,

unless the adverse determination or final judgment is reversed upon further administrative or judicial review.

SEC. 628. DECOMMISSIONING PILOT PROGRAM.

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

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $16,000,000.

SEC. 629. REPORT ON FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY GENERATION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy generation facilities at Department of Energy sites in existence on the date of enactment of this Act.

SEC. 630. URANIUM SALES.

(a) SALES, TRANSFERS, AND SERVICES.—Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by striking subsections (d), (e), and (f) and inserting the following:

''(3) The Secretary may transfer to the Corporation, notwithstanding subsections (b)(2) and (d), natural uranium in amounts sufficient to fulfill the Department of Energy's commitments under Article 4(B) of the Agreement between the Department and the Corporation dated June 17, 2002.

''(d) INVENTORY SALES.—(1) In addition to the transfers and sales authorized under subsections (b) and (c) and under paragraph (5) of this subsection, the United States Government may transfer or sell uranium in any form subject to paragraphs (2), (3), and (4).

''(2) Except as provided in subsections (b) and (c) and paragraph (5) of this subsection, no sale or transfer of uranium shall be made under this subsection by the United States Government unless—

''(A) the President determines that the material is not necessary for national security needs and the sale or transfer has no adverse impact on implementation of existing government-to-government agreements;

''(B) the price paid to the appropriate Federal agency, if the transaction is a sale, will not be less than the fair market value of the material; and

''(C) the sale or transfer to commercial nuclear power end users is made pursuant to a contract of at least 3 years' duration.

''(3) Except as provided in paragraph (5), the United States Government shall not make any transfer or sale of uranium in any form under this subsection that would cause the total amount of uranium transferred or sold pursuant to this subsection that is delivered for consumption by commercial nuclear power end users to exceed—

''(A) 3,000,000 pounds of U_3 O_8 equivalent in fiscal year 2004, 2005, 2006, 2007, 2008, or 2009;

''(B) 5,000,000 pounds of U_3O_8 equivalent in fiscal year 2010 or 2011;

''(C) 7,000,000 pounds of U_3O_8 equivalent in fiscal year 2012; and

''(D) 10,000,000 pounds of U_3O_8 equivalent in fiscal year 2013 or any fiscal year thereafter.

''(4) Except for sales or transfers under paragraph (5), for the purposes of this subsection, the recovery of uranium from uranium bearing materials transferred or sold by the United States Government to the domestic uranium industry shall be the preferred method of making uranium available. The recovered uranium shall be counted against the annual maximum deliveries set forth in this section, when such uranium is sold to end users.

''(5) The United States Government may make the following sales and transfers:

''(A) Sales or transfers to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications.

''(B) Sales or transfers to any person for national security purposes, as determined by the Secretary.

''(C) Sales or transfers to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

''(D) Sales or transfers to the Department of Energy research reactor sales program.

''(E) Sales or transfers, at fair market value, for emergency purposes in the event of a disruption in supply to commercial nuclear power end users in the United States.

''(F) Sales or transfers, at fair market value, for use in a commercial reactor in the United States with nonstandard fuel requirements.

''(G) Sales or transfers provided for under law for use by the Tennessee Valley Authority in relation to the Department of Energy's highly enriched uranium or tritium programs.

''(6) For purposes of this subsection, the term 'United States Government' does not include the Tennessee Valley Authority.

''(e) SAVINGS PROVISION.—Nothing in this subchapter modifies the terms of the Russian HEU Agreement.

''(f) SERVICES.—Notwithstanding any other provision of this section, if the Secretary determines that the Corporation has failed, or may fail, to perform any obligation under the Agreement between the Department of Energy and the Corporation dated June 17, 2002, and as amended thereafter, which failure could result in termination of the Agreement, the Secretary shall notify Congress, in such a manner that affords Congress an opportunity to comment, prior to a determination by the Secretary whether termination, waiver, or modification of the Agreement is required. The Secretary is authorized to take such action as he determines necessary under the Agreement to terminate, waive, or modify provisions of the Agreement to achieve its purposes.''.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of Energy shall report to Congress on the implementation of this section. The report shall include a discussion of available excess uranium inventories; 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.

SEC. 631. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2004, 2005, and 2006 for—

(1) cooperative, cost-shared agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be

applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) DOMESTIC URANIUM PRODUCER.—For purposes of this section, the term ''domestic uranium producer'' has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998.

(c) LIMITATION.—No activities funded under this section may be carried out in the State of New Mexico.

SEC. 632. WHISTLEBLOWER PROTECTION.

(a) DEFINITION OF EMPLOYER.—Section 211(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(2)) 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.''.

(b) DE NOVO REVIEW.—Subsection (b) of such section 211 is amended by adding at the end the following new paragraph:

''(4) If the Secretary has not issued a final decision within 540 days after the filing of a complaint under paragraph (1), and there is no showing that such delay is due to the bad faith of the person seeking relief under this paragraph, such person may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.''.

SEC. 633. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

(1) in subsection a., by striking ''a. The Commission'' and inserting ''a. IN GENERAL.—Except as provided in subsection b., the Commission'';

(2) by redesignating subsection b. as subsection c.; and

(3) by inserting after subsection a. the following:

''b. MEDICAL ISOTOPE PRODUCTION.—

''(1) DEFINITIONS.—In this subsection:

''(A) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' means uranium enriched to include concentration of U–235 above 20 percent.

''(B) MEDICAL ISOTOPE.—The term 'medical isotope' includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

''(C) RADIOPHARMACEUTICAL.—The term 'radiopharmaceutical' means a radioactive isotope that—

''(i) contains byproduct material combined with chemical or biological material; and

''(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

''(D) RECIPIENT COUNTRY.—The term 'recipient country' means Canada, Belgium, France, Germany, and the Netherlands.

''(2) LICENSES.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection a.), the Commission determines that—

''(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

''(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

''(i) uses an alternative nuclear reactor fuel; or

''(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

''(3) REVIEW OF PHYSICAL PROTECTION REQUIREMENTS.—

''(A) IN GENERAL.—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

''(B) IMPOSITION OF ADDITIONAL REQUIREMENTS.—If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

''(4) FIRST REPORT TO CONGRESS.—

''(A) NAS STUDY.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

''(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

''(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

''(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

''(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

''(B) FEASIBILITY.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

''(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

''(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

''(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

''(C) REPORT BY THE SECRETARY.—Not later than 5 years after the date of enactment of the Energy Policy Act of 2003, the Secretary shall submit to Congress a report that—

''(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

''(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

''(5) SECOND REPORT TO CONGRESS.—If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after the date of enactment of the Energy Policy Act of 2003, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

''(6) CERTIFICATION.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

''(7) SUNSET PROVISION.—After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate its review of export license applications under this subsection.''.

SEC. 634. FERNALD BYPRODUCT MATERIAL.

Notwithstanding any other law, the material in the concrete silos at the Fernald uranium processing facility managed on the date of enactment of this Act by the Department of Energy shall be considered byproduct material (as defined by section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2))). The Department of Energy may dispose of the material in a facility regulated by the Nuclear Regulatory Commission or by an Agreement State. If the Department of Energy disposes of the material in such a facility, the Nuclear Regulatory Commission or the Agreement State shall regulate the material as byproduct material under that Act. This material shall remain subject to the jurisdiction of the Department of Energy until it is received at a commercial, Nuclear Regulatory Commission-licensed, or Agreement State-licensed facility, at which time the material shall be subject to the health and safety requirements of the Nuclear Regulatory Commission or the Agreement State with jurisdiction over the disposal site.

SEC. 635. SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE.

(a) DESIGNATION OF RESPONSIBILITY.—The Secretary of Energy shall designate an Office within the Department of Energy to have the responsibility for activities needed to develop a new, or use an existing, facility for safely disposing of all low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Nuclear Regulatory Commission for Class C radioactive waste (referred to in this section as ''GTCC waste'').

(b) COMPREHENSIVE PLAN.—The Secretary of Energy shall develop a comprehensive plan for permanent disposal of GTCC waste which includes plans for a disposal facility. This plan shall be transmitted to Congress in a series of reports, including the following:

(1) REPORT ON SHORT-TERM PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a plan describing the Secretary's operational strategy for continued recovery and storage of GTCC waste until a permanent disposal facility is available.

(2) UPDATE OF 1987 REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress an update of the Secretary's February 1987 report submitted to Congress that made comprehensive recommendations for the disposal of GTCC waste.

(B) CONTENTS.—The update under this paragraph shall contain—

(i) a detailed description and identification of the GTCC waste that is to be disposed;

(ii) a description of current domestic and international programs, both Federal and commercial, for management and disposition of GTCC waste;

(iii) an identification of the Federal and private options and costs for the safe disposal of GTCC waste;

(iv) an identification of the options for ensuring that, wherever possible, generators and users of GTCC waste bear all reasonable costs of waste disposal;

(v) an identification of any new statutory authority required for disposal of GTCC waste; and

(vi) in coordination with the Environmental Protection Agency and the Nuclear Regulatory Commission, an identification of any new regulatory guidance needed for the disposal of GTCC waste.

(3) REPORT ON COST AND SCHEDULE FOR COMPLETION OF ENVIRONMENTAL IMPACT STATEMENT AND RECORD OF DECISION.—Not later than 180 days after the date of submission of the update required under paragraph (2), the Secretary of Energy shall submit to Congress a report containing an estimate of the cost and schedule to complete a draft and final environmental impact statement and to issue a record of decision for a permanent disposal facility, utilizing either a new or existing facility, for GTCC waste.

SEC. 636. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

(1) by inserting ''a.'' before ''No nuclear materials and equipment''; and

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

''b.(1) Notwithstanding any other provision of law, including specifically section 121 of this Act, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. of this Act and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism).

''(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Nuclear Regulatory Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

''(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

''(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

''(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

''(C) the waiver of that paragraph is in the vital national security interest of the United States; or

''(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.''.

(b) APPLICABILITY TO EXPORTS APPROVED FOR TRANSFER BUT NOT TRANSFERRED.—Subsection b. of section 129 of Atomic Energy Act of 1954, as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act but have not yet been transferred as of that date.

SEC. 637. URANIUM ENRICHMENT FACILITIES.

(a) NUCLEAR REGULATORY COMMISSION REVIEW OF APPLICATIONS.—

(1) IN GENERAL.—In order to facilitate a timely review and approval of an application in a proceeding for a license for the construction and operation of a uranium enrichment facility under sections 53 and 63 of the Atomic Energy Act of 1954 (42 U.S.C. 2073, 2093) (referred to in this subsection as a ''covered proceeding''), the Nuclear Regulatory Commission shall, not later than 30 days after the receipt of the application, establish, by order, the schedule for the conduct of any hearing that may be requested by any person whose interest may be affected by the covered proceeding.

(2) FINAL AGENCY DECISION.—The schedule shall provide that a final decision by the Commission on the application shall be made not later than the date that is 2 years after the date of submission of the application by the applicant.

(3) COMPLIANCE WITH SCHEDULE.—

(A) IN GENERAL.—The Commission shall establish a process to assess compliance with the schedule established under paragraph (1) on an ongoing basis during the course of the review of the application, including ensuring compliance with schedules and milestones that are established for the conduct of any covered proceeding by the Atomic Safety and Licensing Board.

(B) REPORT.—The Commission shall submit to Congress on a bimonthly basis a report describing the status of compliance with the schedule established under paragraph (1), including a description of the status of actions required to be completed pursuant to the schedule by officers and employees of—

(i) the Commission in undertaking the safety and environmental review of applications; and

(ii) the Atomic Safety and Licensing Board in the conduct of any covered proceeding.

(4) ENVIRONMENTAL REVIEW.—

(A) IN GENERAL.—In evaluating an application under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for licensing of a facility in a covered proceeding, the Commission shall limit the consideration of need to whether the licensing of the facility would advance the national interest of encouraging in the United States—

(i) additional secure, reliable uranium enrichment capacity;

(ii) diverse supplies and suppliers of uranium enrichment capacity; and

(iii) the deployment of advanced centrifuge enrichment technology.

(B) COMMENT.—In carrying out subparagraph (A), the Commission shall consider and solicit the views of other affected Federal agencies.

(C) ATOMIC SAFETY AND LICENSING BOARD.—

(i) IN GENERAL.—Except as provided in clause (ii), in any covered proceeding, the Commission shall allow the litigation and resolution by the Atomic Safety and Licensing Board of issues arising under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the basis of information submitted by the applicant in its environmental report, prior to publication of any required environmental impact statement.

(ii) EXCEPTIONS.—On the publication of any required environmental impact statement, issues may be proffered for resolution by the Atomic Safety and Licensing Board only if information or conclusions in the environmental impact statement differ significantly from the information or conclusions in the environmental report submitted by the applicant.

(D) ENVIRONMENTAL JUSTICE.—In a covered proceeding, the Commission shall apply the criteria in Appendix C of the final report entitled ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs'' (NUREG–1748), published in August 2003, in any required review of environmental justice.

(5) LOW-LEVEL WASTE.—In any covered proceeding, the Commission shall—

(A) deem the obligation of the Secretary of Energy pursuant to section 3113 of the USEC Privitization Act (42 U.S.C. 2297 h-11) to constitute a plausible strategy with regard to the disposition of depleted uranium generated by such facility; and

(B) treat any residual material that remains following the extraction of any usable resource value from depleted uranium as low-level radioactive waste under part 61 of title 10, Code of Federal Regulations.

(6) ADJUDICATORY HEARING ON LICENSING OF URANIUM ENRICHMENT FACILITIES.—Section 193(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2243(b)) is amended by striking paragraph (2) and inserting the following:

''(2) TIMING.—On the issuance of a final decision on the application by the Atomic Safety and Licensing Board, the Commission shall issue and make immediately effective any license for the construction and operation of a uranium enrichment facility under sections 53 and 63, on a determination by the Commission that the issuance of the license would not cause irreparable injury to the public health and safety or the common defense and security, notwithstanding the

pendency before the Commission of any appeal or petition for review of any decision of the Atomic Safety and Licensing Board.''.

(b) DEPARTMENT OF ENERGY RESPONSIBILITIES.—

(1) IN GENERAL.—Not later than 180 days after a request is made to the Secretary of Energy by an applicant for or recipient of a license for a uranium enrichment facility under section 53, 63, or 193 of the Atomic Energy Act of 1954 ((42 U.S.C. 2073, 2093, 2243), the Secretary shall enter into a memorandum of agreement with the applicant or licensee that provides a schedule for the transfer to the Secretary, not later than 5 years after the generation of any depleted uranium hexafluoride, of title and possession of the depleted uranium hexafluoride to be generated by the applicant or licensee.

(2) COST.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the memorandum of agreement shall specify the cost to be assessed by the Secretary for the transfer to the Secretary of the depleted uranium hexafluoride.

(B) NONDISCRIMINATORY BASIS.—The cost shall be determined by the Secretary on a nondiscriminatory basis.

(C) COST.—Taking into account the physical and chemical characteristics of such depleted uranium hexafluoride, the cost shall not exceed the cost assessed by the Secretary for the acceptance of depleted uranium hexafluoride under—

(i) the memorandum of agreement between the United States Department of Energy and the United States Enrichment Corporation Relating to Depleted Uranium, dated June 30, 1998; and

(ii) the Agreement Between the U.S. Department of Energy and USEC Inc., dated June 17, 2002.

SEC. 638. NATIONAL URANIUM STOCKPILE.

(a) STOCKPILE CREATION.—The Secretary of Energy may create a national low-enriched uranium stockpile with the goals to—

(1) enhance national energy security; and

(2) reduce global proliferation threats.

(b) SOURCE OF MATERIAL.—The Secretary shall obtain material for the stockpile from—

(1) material derived from blend-down of Russian highly enriched uranium derived from weapons materials; and

(2) domestically mined and enriched uranium.

(c) LIMITATION ON SALES OR TRANSFERS.—Sales or transfer of materials in the stockpile shall occur pursuant to section 3112 of the USEC Privitization Act (42 U.S.C. 2297h–10), as amended by section 630 of this Act.

Subtitle C—Advanced Reactor Hydrogen Cogeneration Project

SEC. 651. PROJECT ESTABLISHMENT.

The Secretary of Energy (in this subtitle referred to as the ''Secretary'') is directed to establish an Advanced Reactor Hydrogen Cogeneration Project.

SEC. 652. PROJECT DEFINITION.

The project shall consist of the research, development, design, construction, and operation of a hydrogen production cogeneration research facility 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 facility 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. 653. 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 project, providing the site for the reactor construction, shall be the Idaho National Engineering and Environmental Laboratory (in this subtitle referred to as ''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. 654. PROJECT REQUIREMENTS.

(a) RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—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.

(2) REACTOR TEST CAPABILITIES AT INEEL.—The project shall utilize, where appropriate, extensive reactor test capabilities resident at INEEL.

(3) ALTERNATIVES.—The project shall be designed to explore technical, environmental, and economic feasibility of alternative approaches for reactor-based hydrogen production.

(4) INDUSTRIAL LEAD.—The industrial lead for the project shall be a company incorporated in the United States.

(b) INTERNATIONAL COLLABORATION.—

(1) IN GENERAL.—The Secretary shall seek international cooperation, participation, and financial contribution in this project.

(2) ASSISTANCE FROM INTERNATIONAL PARTNERS.—The Secretary 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.

(3) GENERATION IV INTERNATIONAL FORUM.—International activities shall be coordinated with the Generation IV International Forum.

(4) GENERATION IV NUCLEAR ENERGY SYSTEMS PROGRAM.—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 research 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 explaining why this date is not feasible.

(f) WAIVER OF CONSTRUCTION TIMELINES.—The Secretary is authorized to conduct the Advanced Reactor Hydrogen Cogeneration Project without the constraints of DOE Order 413.3, relating to program and project management for the acquisition of capital assets, as necessary to meet the specified operational date.

(g) COMPETITION.—The Secretary may fund up to 2 teams for up to 1 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 research facility. Utilization of domestic university-based facilities shall be encouraged to provide educational opportunities for student development.

(i) ROLE OF NUCLEAR REGULATORY COMMISSION.—

(1) IN GENERAL.—The Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this subtitle, pursuant to section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(2) RISK-BASED CRITERIA.—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.—The Secretary shall develop and transmit to Congress a comprehensive project plan not later than April 30, 2004. The project plan shall be updated annually with each annual budget submission.

SEC. 655. 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 construction activities described in subsection (b):

(1) For fiscal year 2004, $35,000,000.

(2) For each of fiscal years 2005 through 2008, $150,000,000.

(3) For fiscal years beyond 2008, such sums as are necessary.

(b) CONSTRUCTION.—There are authorized to be appropriated to the Secretary for all project-related construction activities, to be available until expended, $500,000,000.

Subtitle D—Nuclear Security

SEC. 661. NUCLEAR FACILITY THREATS.

(a) STUDY.—The President, in consultation with the Nuclear Regulatory Commission (referred to in this subtitle as the ''Commission'') and other appropriate Federal, State, and local agencies and private entities, shall conduct a study to identify the types of threats that pose an appreciable risk to the security of the various classes of facilities licensed by the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Such study shall take into account, but not be limited to—

(1) the events of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for assistance in an attack from several persons employed at the facility;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weaponry;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration;

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

(11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and

(12) the potential for theft and diversion of nuclear materials from such facilities.

(b) SUMMARY AND CLASSIFICATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress and the Commission a report—

(1) summarizing the types of threats identified under subsection (a); and

(2) classifying each type of threat identified under subsection (a), in accordance with existing laws and regulations, as either—

(A) involving attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or otherwise falling under the responsibilities of the Federal Government; or

(B) involving the type of risks that Commission licensees should be responsible for guarding against.

(c) FEDERAL ACTION REPORT.—Not later than 90 days after the date on which a report is transmitted under subsection (b), the President shall transmit to Congress a report on actions taken, or to be taken, to address the types of threats identified under subsection (b)(2)(A), including identification of the Federal, State, and local agencies responsible for carrying out the obligations and authorities of the United States. Such report may include a classified annex, as appropriate.

(d) REGULATIONS.—Not later than 180 days after the date on which a report is transmitted under subsection (b), the Commission may revise, by rule, the design basis threats issued before the date of enactment of this section as the Commission considers appropriate based on the summary and classification report.

(e) PHYSICAL SECURITY PROGRAM.—The Commission shall establish an operational safeguards response evaluation program that ensures that the physical protection capability and operational safeguards response for sensitive nuclear facilities, as determined by the Commission consistent with the protection of public health and the common defense and security, shall be tested periodically through Commission approved or designed, observed, and evaluated force-on-force exercises to determine whether the ability to defeat the design basis threat is being maintained. For purposes of this subsection, the term ''sensitive nuclear facilities'' includes at a minimum commercial nuclear power plants and category I fuel cycle facilities.

(f) CONTROL OF INFORMATION.—Notwithstanding any other provision of law, the Commission may undertake any rulemaking under this subtitle in a manner that will fully protect safeguards and classified national security information.

(g) FEDERAL SECURITY COORDINATORS.—

(1) REGIONAL OFFICES.—Not later than 18 months after the date of enactment of this Act, 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 such classes of facilities as the Commission determines to be appropriate;

(B) ensuring that such classes of facilities as the Commission determines to be appropriate maintain security consistent with the security plan in accordance with the appropriate threat level; and

(C) assisting in the coordination of security measures among the private security forces at such classes of facilities as the Commission determines to be appropriate and Federal, State, and local authorities, as appropriate.

(h) TRAINING PROGRAM.—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.

SEC. 662. FINGERPRINTING FOR CRIMINAL HISTORY RECORD CHECKS.

(a) IN GENERAL.—Subsection a. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(a)) is amended—

(1) 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 each individual or entity—

''(i) that is licensed or certified to engage in an activity subject to regulation by the Commission;

''(ii) that has filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

''(iii) that has notified the Commission, in writing, of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission,

to fingerprint each individual described in subparagraph (B) before the individual is permitted unescorted access or access, whichever is applicable, as 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 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; or

''(ii) is permitted access to safeguards information under section 147.'';

(2) by striking ''All fingerprints obtained by a licensee or applicant as required in the preceding sentence'' and inserting the following:

''(2) SUBMISSION TO THE ATTORNEY GENERAL.—All fingerprints obtained by an individual or entity as required in paragraph (1)'';

(3) by striking ''The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant.'' and inserting the following:

''(3) COSTS.—The costs of any identification and records check conducted pursuant to paragraph (1) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).''; and

(4) by striking ''Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to licensee or applicant submitting such fingerprints.'' and inserting the following:

''(4) PROVISION TO INDIVIDUAL OR ENTITY REQUIRED TO CONDUCT FINGERPRINTING.—Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).''.

(b) ADMINISTRATION.—Subsection c. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(c)) is amended—

(1) by striking '', subject to public notice and comment, regulations—'' and inserting ''requirements—''; and

(2) by striking, in paragraph (2)(B), ''unescorted access to the facility of a licensee or applicant'' and inserting ''unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)''.

(c) BIOMETRIC METHODS.—Subsection d. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(d)) is redesignated as subsection e., and the following is inserted after subsection c.:

''d. USE OF OTHER BIOMETRIC METHODS.—The Commission may satisfy any requirement for a person to conduct fingerprinting under this section using any other biometric method for identification approved for use by the Attorney General, after the Commission has approved the alternative method by rule.''.

SEC. 663. USE OF FIREARMS BY SECURITY PERSONNEL OF LICENSEES AND CERTIFICATE HOLDERS OF THE COMMISSION.

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

''(z)(1) notwithstanding section 922(o), (v), and (w) of title 18, United States Code, or any similar provision of any State law or any similar rule or regulation of a State or any political subdivision of a State prohibiting the transfer or possession of a handgun, a rifle or shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for the foregoing, or a large capacity ammunition feeding device, authorize security personnel of licensees and certificate holders of the Commission (including employees of contractors of licensees and certificate holders) to receive, possess, transport, import, and use 1 or more of those weapons, ammunition, or devices, if the Commission determines that—

''(A) such authorization is necessary to the discharge of the security personnel's official duties; and

''(B) the security personnel—

''(i) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws pertaining to possession of firearms by certain categories of persons;

''(ii) have successfully completed requirements established through guidelines implementing this subsection for training in use of firearms and tactical maneuvers;

''(iii) are engaged in the protection of—

''(I) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission; or

''(II) radioactive material or other property owned or possessed by a person that is a licensee or certificate holder of the Commission, or that is being transported to or from a facility owned or operated by such a licensee or certificate holder, and that has

been determined by the Commission to be of significance to the common defense and security or public health and safety; and

''(iv) are discharging their official duties.

''(2) Such receipt, possession, transportation, importation, or use shall be subject to—

''(A) chapter 44 of title 18, United States Code, except for section 922(a)(4), (o), (v), and (w);

''(B) chapter 53 of title 26, United States Code, except for section 5844; and

''(C) a background check by the Attorney General, based on fingerprints and including a check of the system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) to determine whether the person applying for the authority is prohibited from possessing or receiving a firearm under Federal or State law.

''(3) This subsection shall become effective upon the issuance of guidelines by the Commission, with the approval of the Attorney General, to govern the implementation of this subsection.

''(4) In this subsection, the terms 'handgun', 'rifle', 'shotgun', 'firearm', 'ammunition', 'machinegun', 'semiautomatic assault weapon', 'large capacity ammunition feeding device', 'short-barreled shotgun', and 'short-barreled rifle' shall have the meanings given those terms in section 921(a) of title 18, United States Code.''.

SEC. 664. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 a. 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. 665. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

(a) IN GENERAL.—Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking ''storage facility'' and inserting ''storage, treatment, or disposal facility'';

(2) 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;

(3) 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 comma at the end and inserting a semicolon; and

(4) by inserting after paragraph (4) the following:

''(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, 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,''.

(b) PENALTIES.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended by striking ''$10,000 or imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life'' both places it appears and inserting ''$1,000,000 or imprisoned for up to life without parole''.

SEC. 666. SECURE TRANSFER OF NUCLEAR MATERIALS.

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201–2210b) is amended by adding at the end the following new section:

''SEC. 170C. SECURE TRANSFER OF NUCLEAR MATERIALS.

''a. The Nuclear Regulatory Commission shall establish a system to ensure that materials described in subsection b., when transferred or received in the United States by any party pursuant to an import or export license issued pursuant to this Act, are accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying the transfer of such materials shall be subject to a security background check conducted by appropriate Federal entities.

''b. Except as otherwise provided by the Commission by regulation, the materials referred to in subsection a. are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, transuranic waste, and low-level radioactive waste (as defined in section 2(16) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(16))).''.

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials or classes of individuals that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170C of the Atomic Energy Act of 1954, as added by subsection (a) of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the issuance of regulations under subsection (b), except that the background check requirement shall become effective on a date established by the Commission.

(d) EFFECT ON OTHER LAW.—Nothing in this section or the amendment made by this section shall waive, modify, or affect the application of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code.

(e) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 14 of the Atomic Energy Act of 1954 is amended by adding at the end the following new item:

''Sec. 170C. Secure transfer of nuclear materials.''.

SEC. 667. DEPARTMENT OF HOMELAND SECURITY CONSULTATION.

Before issuing a license for a utilization facility, the Nuclear Regulatory Commission shall consult with the Department of Homeland Security concerning the potential vulnerabilities of the location of the proposed facility to terrorist attack.

SEC. 668. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

(b) AGGREGATE AMOUNT OF CHARGES.—Section 6101(c)(2)(A) 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.''.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing 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 in which—

''(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 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. NEIGHBORHOOD ELECTRIC VEHICLES.

(a) AMENDMENTS.—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) in paragraph (13), by striking ''and'' at the end;

(3) in paragraph (14), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'neighborhood electric vehicle' means a motor vehicle that—

''(A) meets the definition of a low-speed vehicle (as defined in part 571 of title 49, Code of Federal Regulations);

''(B) meets the definition of a zero-emission vehicle (as defined in section 86.1702–99 of title 40, Code of Federal Regulations);

''(C) meets the requirements of Federal Motor Vehicle Safety Standard No. 500; and

''(D) has a maximum speed of not greater than 25 miles per hour.''.

(b) CREDITS.—Notwithstanding section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) or any other provision of law, a neighborhood electric vehicle shall not be allocated credit as more than 1 vehicle for purposes of determining compliance with any requirement under title III or title V of such Act.

SEC. 703. 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) HEAVY DUTY DEDICATED VEHICLE.—The term 'heavy duty dedicated vehicle' means a dedicated vehicle that has a gross vehicle weight rating of more than 14,000 pounds.

''(B) MEDIUM DUTY DEDICATED VEHICLE.—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.

''(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. 704. 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. 705. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) ALTERNATIVE COMPLIANCE.—

(1) IN GENERAL.—Title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is amended—

(A) by redesignating section 514 as section 515; and

(B) by inserting after section 513 the following:

''SEC. 514. ALTERNATIVE COMPLIANCE.

''(a) APPLICATION FOR WAIVER.—Any covered person subject to section 501 and any State subject to 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 100 percent compliance with fuel use requirements in section 501, or, for entities covered under section 507(o), a reduction equal to the covered State entity's consumption of alternative fuels if all its alternative fuel vehicles given credit under section 508 were to use alternative fuel 100 percent of the time; and

''(2) is in compliance with all applicable vehicle emission standards established by the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.).

''(c) REVOCATION OF WAIVER.—The Secretary shall revoke any waiver granted under this section if the State or covered person fails to comply with subsection (b).''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by striking the item relating to section 514 and inserting the following:

''Sec. 514. Alternative compliance.

''Sec. 515. Authorization of appropriations.''.

(b) CREDITS.—Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) (as amended by section 703) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

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

''(a) IN GENERAL.—The Secretary shall allocate a credit to a fleet or covered person that is required to acquire an alternative fueled vehicle under this title, if that fleet or person acquires an alternative fueled vehicle—

''(1) in excess of the number that fleet or person is required to acquire under this title;

''(2) before the date on which that fleet or person is required to acquire an alternative fueled vehicle under this title; or

''(3) that is eligible to receive credit under subsection (b).

''(b) MAXIMUM AVAILABLE POWER.—The Secretary shall allocate credit to a fleet under subsection (a)(3) for the acquisition by the fleet of a hybrid vehicle as follows:

''(1) For a hybrid vehicle with at least 4 percent but less than 10 percent maximum available power, the Secretary shall allocate 25 percent of 1 credit.

''(2) For a hybrid vehicle with at least 10 percent but less than 20 percent maximum available power, the Secretary shall allocate 50 percent of 1 credit.

''(3) For a hybrid vehicle with at least 20 percent but less than 30 percent maximum available power, the Secretary shall allocate 75 percent of 1 credit.

''(4) For a hybrid vehicle with 30 percent or more maximum available power, the Secretary shall allocate 1 credit.''; and

(3) by adding at the end the following:

''(g) CREDIT FOR INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

''(1) DEFINITION OF QUALIFYING INFRASTRUCTURE.—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; and

''(C) such other activities as 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 purpose 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.

''(h) DEFINITION OF MAXIMUM AVAILABLE POWER.—In this section, the term 'maximum available power' means the quotient obtained by dividing—

''(1) the maximum power available from the energy storage device of a hybrid vehicle, during a standard 10-second pulse power or equivalent test; by

''(2) the sum of—

''(A) the maximum power described in subparagraph (A); and

''(B) the net power of the internal combustion or heat engine, as determined in accordance with standards established by the Society of Automobile Engineers.''.

(c) LEASE CONDENSATE FUELS.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) (as amended by section 702) 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 ''liquefied petroleum gas;'';

(2) in paragraph (14)—

(A) by inserting ''mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate,'' after ''liquefied petroleum gas,''; and

(B) by striking ''and'' at the end;

(3) in paragraph (15), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(16) the term 'lease condensate' means a mixture, primarily of pentanes and heavier hydrocarbons, that is recovered as a liquid from natural gas in lease separation facilities.''.

(d) LEASE CONDENSATE USE CREDITS.—

(1) IN GENERAL.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) is amended by adding at the end the following:

''SEC. 313. LEASE CONDENSATE USE CREDITS.

''(a) IN GENERAL.—Subject to subsection (d), the Secretary shall allocate 1 credit under this section to a fleet or covered person for each qualifying volume of the lease condensate component of fuel containing at least 50 percent lease condensate, or fuels extracted from lease condensate, after the date of enactment of this section for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

''(b) REQUIREMENTS.—A credit allocated under this section—

''(1) shall be subject to the same exceptions, authority, documentation, and use of credits that are specified for qualifying volumes of biodiesel in section 312; and

''(2) shall not be considered a credit under section 508.

''(c) REGULATION.—

''(1) IN GENERAL.—Subject to subsection (d), not later than January 1, 2004, after the collection of appropriate information and data that consider usage options, uses in other industries, products, or processes, potential volume capacities, costs, air emissions, and fuel efficiencies, the Secretary shall issue a regulation establishing requirements and procedures for the implementation of this section.

''(2) QUALIFYING VOLUME.—The regulation shall include a determination of an appropriate qualifying volume for lease condensate, except that in no case shall the Secretary determine that the qualifying volume for lease condensate is less than 1,125 gallons.

''(d) APPLICABILITY.—This section applies unless the Secretary finds that the use of lease condensate as an alternative fuel would adversely affect public health or safety or ambient air quality or the environment.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by adding at the end of the items relating to title III the following:

''Sec. 313. Lease condensate use credits.''.

(e) EMERGENCY EXEMPTION.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) (as amended by section 702 and this section) is amended in paragraph (9)(E) by inserting before the semicolon at the end '', including vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages, as determined by the Secretary''.

SEC. 706. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy 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—

(1) the development of alternative fueled vehicle technology;

(2) the availability of that technology in the market; and

(3) the cost of alternative fueled vehicles.

(b) TOPICS.—As part of the study under subsection (a), the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(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; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this title.

(c) REPORT.—Upon completion of the study under this section, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

SEC. 707. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLE PURCHASING REQUIREMENTS.

Section 310(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13218(b)(1)) is amended by striking ''1 year after the date of enactment of this subsection'' and inserting ''February 15, 2004''.

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART I—HYBRID VEHICLES

SEC. 711. HYBRID VEHICLES.

The Secretary of Energy shall accelerate efforts directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

PART II—ADVANCED VEHICLES

SEC. 721. DEFINITIONS.

In this part:

(1) ALTERNATIVE FUELED VEHICLE.—

(A) IN GENERAL.—The term ''alternative fueled vehicle'' means a vehicle propelled solely on an alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)).

(B) EXCLUSION.—The term ''alternative fueled vehicle'' does not include a vehicle that the Secretary determines, by regulation, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) FUEL CELL VEHICLE.—The term ''fuel cell vehicle'' means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such fuel cell system may or may not include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLE.—The term ''hybrid vehicle'' means a medium or heavy duty vehicle propelled by an internal combustion engine or heat engine using any combustible fuel and an onboard rechargeable energy storage device.

(4) NEIGHBORHOOD ELECTRIC VEHICLE.—The term ''neighborhood electric vehicle'' means a motor vehicle that—

(A) meets the definition of a low-speed vehicle (as defined in part 571 of title 49, Code of Federal Regulations);

(B) meets the definition of a zero-emission vehicle (as defined in section 86.1702–99 of title 40, Code of Federal Regulations);

(C) meets the requirements of Federal Motor Vehicle Safety Standard No. 500; and

(D) has a maximum speed of not greater than 25 miles per hour.

(5) PILOT PROGRAM.—The term ''pilot program'' means the competitive grant program established under section 722.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL VEHICLE.—The term ''ultra-low sulfur diesel vehicle'' means a vehicle manufactured in any of model years 2003 through 2006 powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel that contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in—

(I) model year 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(II) model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the quantity of emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best-performing technology of ultra-low sulfur diesel vehicles of the same class and application that are commercially available.

SEC. 722. PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Transportation, shall establish a competitive grant pilot program, to be administered through the Clean Cities Program of the Department of Energy, to provide not more than 15 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) GRANT PURPOSES.—A grant under this section may be used for the following purposes:

(1) The acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles (including neighborhood electric vehicles); and

(B) motorized 2-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services; and

(C) ground support vehicles at public airports (including vehicles to carry baggage or push or pull airplanes toward or away from terminal gates).

(3) The acquisition of ultra-low sulfur diesel vehicles.

(4) Installation or acquisition of infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) APPLICATIONS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue requirements for applying for grants under the pilot program.

(B) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require that an application for a grant—

(i) be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department of Energy; and

(ii) include—

(I) a description of the project proposed in the application, including how the project meets the requirements of this part;

(II) an estimate of the ridership or degree of use of the project;

(III) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, and a plan to collect and disseminate environmental data, related to the project to be funded under the grant, over the life of the project;

(IV) a description of how the project will be sustainable without Federal assistance after the completion of the term of the grant;

(V) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(VI) a description of which costs of the project will be supported by Federal assistance under this part; and

(VII) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, and a commitment by the applicant to use such fuel in carrying out the project.

(2) PARTNERS.—An applicant under paragraph (1) may carry out a project under the pilot program in partnership with public and private entities.

(d) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall—

(1) consider each applicant's previous experience with similar projects; and

(2) give priority consideration to applications that—

(A) are most likely to maximize protection of the environment;

(B) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this part is completed; and

(C) exceed the minimum requirements of subsection (c)(1)(B)(ii).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due not later than 180 days after the date of publication of the notice.

(2) SELECTION.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer reviewed proposal, all applications for projects to be awarded a grant under the pilot program.

(g) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 nor more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.

SEC. 723. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 60 days after the date on which grants are awarded under this part, the Secretary shall submit to Congress a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including—

(1) an assessment of the benefits to the environment derived from the projects included in the pilot program; and

(2) an estimate of the potential benefits to the environment to be derived from widespread application of alternative fueled vehicles and ultra-low sulfur diesel vehicles.

SEC. 724. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this part $200,000,000, to remain available until expended.

PART III—FUEL CELL BUSES

SEC. 731. FUEL CELL TRANSIT BUS DEMONSTRATION.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of Transportation, shall establish a transit bus demonstration program to make competitive, merit-based awards for 5-year projects to demonstrate not more than 25 fuel cell transit buses (and necessary infrastructure) in 5 geographically dispersed localities.

(b) PREFERENCE.—In selecting projects under this section, the Secretary of Energy shall give preference to projects that are most likely to mitigate congestion and improve air quality.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $10,000,000 for each of fiscal years 2004 through 2008.

Subtitle C—Clean School Buses

SEC. 741. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term ''alternative fuel'' means liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume.

(3) ALTERNATIVE FUEL SCHOOL BUS.—The term ''alternative fuel school bus'' means a school bus that meets all of the requirements of this subtitle and is operated solely on an alternative fuel.

(4) EMISSIONS CONTROL RETROFIT TECHNOLOGY.—The term ''emissions control retrofit technology'' means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(5) IDLING.—The term ''idling'' means operating an engine while remaining stationary for more than approximately 15 minutes, except that the term does not apply to routine stoppages associated with traffic movement or congestion.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term ''ultra-low sulfur diesel fuel'' means diesel fuel that contains sulfur at not more than 15 parts per million.

(8) ULTRA-LOW SULFUR DIESEL FUEL SCHOOL BUS.—The term ''ultra-low sulfur diesel fuel school bus'' means a school bus that meets all of the requirements of this subtitle and is operated solely on ultra-low sulfur diesel fuel.

SEC. 742. PROGRAM FOR REPLACEMENT OF CERTAIN SCHOOL BUSES WITH CLEAN SCHOOL BUSES.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible entities for the replacement of existing school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including instructions for the submission of grant applications and certification requirements to ensure compliance with this subtitle.

(2) APPLICATION DEADLINES.—The requirements established under paragraph (1) shall require submission of grant applications not later than—

(A) in the case of the first year of program implementation, the date that is 180 days after the publication of the requirements in the Federal Register; and

(B) in the case of each subsequent year, June 1 of the year.

(c) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to 1 or more local or State governmental entities responsible for providing school bus service to 1 or more public school systems or responsible for the purchase of school buses;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems to be served by the buses, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(d) AWARD DEADLINES.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall award a grant made to a qualified applicant for a fiscal year—

(A) in the case of the first fiscal year of program implementation, not later than the date that is 90 days after the application deadline established under subsection (b)(2); and

(B) in the case of each subsequent fiscal year, not later than August 1 of the fiscal year.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—If the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subsection (i)(1) for a fiscal year, the Administrator shall award a grant made to a qualified applicant under subsection (i)(2) not later than September 30 of the fiscal year.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—A grant under this section shall be used for the replacement of school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) SCHOOL BUS FLEET.—All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) USE OF FUNDS.—Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses, including State taxes and contract fees associated with the acquisition of such buses; and

(B) to provide—

(i) up to 20 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 25 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) GRANT RECIPIENT FUNDS.—The grant recipient shall be required to provide at least—

(A) in the case of a grant recipient described in paragraph (1) or (3) of subsection (c), the lesser of—

(i) an amount equal to 15 percent of the total cost of each bus received; or

(ii) $15,000 per bus; and

(B) in the case of a grant recipient described in subsection (c)(2), the lesser of—

(i) an amount equal to 20 percent of the total cost of each bus received; or

(ii) $20,000 per bus.

(4) ULTRA-LOW SULFUR DIESEL FUEL.—In the case of a grant recipient receiving a grant for ultra-low sulfur diesel fuel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Administrator that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(5) TIMING.—All alternative fuel school buses, ultra-low sulfur diesel fuel school buses, or alternative fuel infrastructure acquired under a grant awarded under this section shall be purchased and placed in service as soon as practicable.

(g) BUSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), funding under a grant made under this section for the acquisition of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses shall only be used to acquire school buses—

(A) with a gross vehicle weight of greater than 14,000 pounds;

(B) that are powered by a heavy duty engine;

(C) in the case of alternative fuel school buses manufactured in model years 2004 through 2006, that emit not more than 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(D) in the case of ultra-low sulfur diesel fuel school buses manufactured in model years 2004 through 2006, that emit not more than 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(2) LIMITATIONS.—A bus shall not be acquired under this section that emits nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of the same class of ultra-low sulfur diesel fuel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall—

(1) seek, to the maximum extent practicable, to achieve nationwide deployment of alternative fuel school buses and ultra-low sulfur diesel fuel school buses through the program under this section; and

(2) ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), of the amount of grant funding made available to carry out this section for any fiscal year, the Administrator shall use—

(A) 70 percent for the acquisition of alternative fuel school buses or supporting infrastructure; and

(B) 30 percent for the acquisition of ultra-low sulfur diesel fuel school buses.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—After the first fiscal year in which this program is in effect, if the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subparagraph (A) or (B) of paragraph (1) for a fiscal year, effective beginning on August 1 of the fiscal year, the Administrator shall make the remaining funds available to other qualified grant applicants under this section.

(j) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy, consistent with the health, safety, and welfare of students and the proper operation and maintenance of school buses, to reduce the incidence of unnecessary school bus idling at schools when picking up and unloading students.

(k) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Administrator shall transmit to Congress a report evaluating implementation of the programs under this section and section 743.

(2) COMPONENTS.—The reports shall include a description of—

(A) the total number of grant applications received;

(B) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(C) grants awarded and the criteria used to select the grant recipients;

(D) certified engine emission levels of all buses purchased or retrofitted under the programs under this section and section 743;

(E) an evaluation of the in-use emission level of buses purchased or retrofitted under the programs under this section and section 743; and

(F) any other information the Administrator considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $45,000,000 for fiscal year 2005;

(2) $65,000,000 for fiscal year 2006;

(3) $90,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 743. DIESEL RETROFIT PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of retrofit technologies for diesel school buses.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to 1 or more public school systems;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems that the buses will serve, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, or particulate matter per proposal or per bus; or

(B) involve the use of emissions control retrofit technology on diesel school buses that operate solely on ultra-low sulfur diesel fuel.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) buses on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1991 or later; and

(C) will be used for the transportation of school children to and from school for a minimum of 5 years;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the retrofit emissions-control technology to be demonstrated;

(2) that buses powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur; and

(3) that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $20,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006;

(3) $45,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 744. FUEL CELL SCHOOL BUSES.

(a) ESTABLISHMENT.—The Secretary shall establish a program for entering into cooperative agreements—

(1) with private sector fuel cell bus developers for the development of fuel cell-powered school buses; and

(2) subsequently, with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) REPORTS TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000 for the period of fiscal years 2004 through 2006.

Subtitle D—Miscellaneous

SEC. 751. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary of Energy shall, in cooperation with the Secretary

of Transportation and the Administrator of the Environmental Protection Agency, establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section—

(1) $25,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006; and

(3) $50,000,000 for fiscal year 2007.

SEC. 752. MOBILE EMISSION REDUCTIONS TRADING AND CREDITING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the experience of the Administrator with the trading of mobile source emission reduction credits for use by owners and operators of stationary source emission sources to meet emission offset requirements within a nonattainment area.

(b) CONTENTS.—The report shall describe—

(1) projects approved by the Administrator that include the trading of mobile source emission reduction credits for use by stationary sources in complying with offset requirements, including a description of—

(A) project and stationary sources location;

(B) volumes of emissions offset and traded;

(C) the sources of mobile emission reduction credits; and

(D) if available, the cost of the credits;

(2) the significant issues identified by the Administrator in consideration and approval of trading in the projects;

(3) the requirements for monitoring and assessing the air quality benefits of any approved project;

(4) the statutory authority on which the Administrator has based approval of the projects;

(5) an evaluation of how the resolution of issues in approved projects could be used in other projects; and

(6) any other issues that the Administrator considers relevant to the trading and generation of mobile source emission reduction credits for use by stationary sources or for other purposes.

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas; and

(2) ways to promote fuel conservation measures for aviation to—

(A) enhance fuel efficiency; and

(B) reduce emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of the emissions on human health.

SEC. 754. DIESEL FUELED VEHICLES.

(a) DEFINITION OF TIER 2 EMISSION STANDARDS.—In this section, the term ''tier 2 emission standards'' means the motor vehicle emission standards that apply to passenger cars, light trucks, and larger passenger vehicles manufactured after the 2003 model year, as issued on February 10, 2000, by the Administrator of the Environmental Protection Agency under sections 202 and 211 of the Clean Air Act (42 U.S.C. 7521, 7545).

(b) DIESEL COMBUSTION AND AFTER-TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate efforts to improve diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(c) GOALS.—The Secretary shall carry out subsection (b) with a view toward achieving the following goals:

(1) Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier 2 emission standards.

(B) The heavy-duty emissions standards of 2007 that are applicable to heavy-duty vehicles under regulations issued by the Administrator of the Environmental Protection Agency as of the date of enactment of this Act.

(2) Developing the next generation of low-emission, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

SEC. 755. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''program'' means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the ''Conserve by Bicycling Program''.

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (c);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

SEC. 756. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term ''advanced truck stop electrification system'' means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term ''auxiliary power unit'' means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term ''heavy-duty vehicle'' means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term ''idle reduction technology'' means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term ''long-duration idling'' means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term ''long-duration idling'' does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology.

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction technology based on beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) $19,500,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, and $45,000,000 for fiscal year 2006.

(ii) COST SHARING.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iii) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

''(12) HEAVY DUTY VEHICLES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

''(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

''(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

''(i) the idle reduction technology is fully functional at all times; and

''(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).''.

SEC. 757. BIODIESEL ENGINE TESTING PROGRAM.

(a) IN GENERAL.—Not later that 180 days after the date of enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers, to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) SCOPE.—The program shall provide for testing to determine the impact of biodiesel from different sources on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and antitampering 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 of this Act, the Secretary shall provide an interim report to Congress on the findings of the program, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2004 through 2008 to carry out this section.

(e) DEFINITION.—For purposes of this section, the term ''biodiesel'' means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for 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. 758. HIGH OCCUPANCY VEHICLE EXCEPTION.

Notwithstanding section 102(a) 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 the vehicle—

(1) is a dedicated vehicle (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S. 13211)); or

(2) is a hybrid vehicle (as defined by the State for the purpose of this section).

Subtitle E—Automobile Efficiency

SEC. 771. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.

In addition to any other funds authorized by law, there are authorized to be appropriated to the National Highway Traffic Safety Administration to carry out its obligations with respect to average fuel economy standards $2,000,000 for each of fiscal years 2004 through 2008.

SEC. 772. 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 effects of fuel economy standards on passenger automobiles, nonpassenger automobiles, and occupant safety.

''(6) The effects of compliance with average fuel economy standards on levels of automobile industry employment in the United States.''.

SEC. 773. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

(1) in each of subsections (b) and (d), by striking ''1993–2004'' and inserting ''1993–2008'';

(2) in subsection (f), by striking ''2001'' and inserting ''2005''; and

(3) in subsection (f)(1), by striking ''2004'' and inserting ''2008''.

(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. 774. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall initiate a study of the feasibility and effects of reducing by model year 2012, by a significant percentage, the amount of fuel consumed by automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) REPORT.—The Administrator shall submit to Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

TITLE VIII—HYDROGEN

SEC. 801. DEFINITIONS.

In this title:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Hydrogen Technical and Fuel Cell Advisory Committee established under section 805.

(2) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(3) FUEL CELL.—The term ''fuel cell'' means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by an electrochemical process taking place at separate electrodes in the device.

(4) INFRASTRUCTURE.—The term ''infrastructure'' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen.

(5) LIGHT DUTY VEHICLE.—The term ''light duty vehicle'' means a car or truck classified by the Department of Transportation as a Class I or IIA vehicle.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 802. PLAN.

Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a coordinated plan for the programs described in this title and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—

(1) the agenda for the next 5 years for the programs authorized under this title, including the agenda for each activity enumerated in section 803(a);

(2) the types of entities that will carry out the activities under this title and what role each entity is expected to play;

(3) the milestones that will be used to evaluate the programs for the next 5 years;

(4) the most significant technical and nontechnical hurdles that stand in the way of achieving the goals described in section 803(b), and how the programs will address those hurdles; and

(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

SEC. 803. PROGRAMS.

(a) ACTIVITIES.—The Secretary, in partnership with the private sector, shall conduct programs to address—

(1) production of hydrogen from diverse energy sources, including—

(A) fossil fuels, which may include carbon capture and sequestration;

(B) hydrogen-carrier fuels (including ethanol and methanol);

(C) renewable energy resources, including biomass; and

(D) nuclear energy;

(2) use of hydrogen for commercial, industrial, and residential electric power generation;

(3) safe delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) convenient and economic refueling of vehicles either at central refueling stations or through distributed on-site generation;

(4) advanced vehicle technologies, including—

(A) engine and emission control systems;

(B) energy storage, electric propulsion, and hybrid systems;

(C) automotive materials; and

(D) other advanced vehicle technologies;

(5) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid, or solid form at refueling facilities and onboard vehicles;

(6) development of safe, durable, affordable, and efficient fuel cells, including fuel-flexible fuel cell power systems, improved manufacturing processes, high-temperature membranes, cost-effective fuel processing for natural gas, fuel cell stack and system reliability, low temperature operation, and cold start capability;

(7) development, after consultation with the private sector, of necessary codes and standards (including international codes and standards and voluntary consensus standards adopted in accordance with OMB Circular A–119) and safety practices for the production, distribution, storage, and use of hydrogen, hydrogen-carrier fuels, and related products; and

(8) a public education program to develop improved knowledge and acceptability of hydrogen-based systems.

(b) PROGRAM GOALS.—

(1) VEHICLES.—For vehicles, the goals of the program are—

(A) to enable a commitment by automakers no later than year 2015 to offer safe, affordable, and technically viable hydrogen fuel cell vehicles in the mass consumer market; and

(B) to enable production, delivery, and acceptance by consumers of model year 2020 hydrogen fuel cell and other hydrogen-powered vehicles that will have—

(i) a range of at least 300 miles;

(ii) improved performance and ease of driving;

(iii) safety and performance comparable to vehicle technologies in the market; and

(iv) when compared to light duty vehicles in model year 2003—

(I) fuel economy that is substantially higher;

(II) substantially lower emissions of air pollutants; and

(III) equivalent or improved vehicle fuel system crash integrity and occupant protection.

(2) HYDROGEN ENERGY AND ENERGY INFRASTRUCTURE.—For hydrogen energy and energy infrastructure, the goals of the program are to enable a commitment not later than 2015 that will lead to infrastructure by 2020 that will provide—

(A) safe and convenient refueling;

(B) improved overall efficiency;

(C) widespread availability of hydrogen from domestic energy sources through—

(i) production, with consideration of emissions levels;

(ii) delivery, including transmission by pipeline and other distribution methods for hydrogen; and

(iii) storage, including storage in surface transportation vehicles;

(D) hydrogen for fuel cells, internal combustion engines, and other energy conversion devices for portable, stationary, and transportation applications; and

(E) other technologies consistent with the Department's plan.

(3) FUEL CELLS.—The goals for fuel cells and their portable, stationary, and transportation applications are to enable—

(A) safe, economical, and environmentally sound hydrogen fuel cells;

(B) fuel cells for light duty and other vehicles; and

(C) other technologies consistent with the Department's plan.

(c) DEMONSTRATION.—In carrying out the programs under this section, the Secretary shall fund a limited number of demonstration projects, consistent with a determination of the maturity, cost-effectiveness, and environmental impacts of technologies supporting each project. In selecting projects under this subsection, the Secretary shall, to the extent practicable and in the public interest, select projects that—

(1) involve using hydrogen and related products at existing facilities or installations, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or units of the National Park System;

(2) depend on reliable power from hydrogen to carry out essential activities;

(3) lead to the replication of hydrogen technologies and draw such technologies into the marketplace;

(4) include vehicle, portable, and stationary demonstrations of fuel cell and hydrogen-based energy technologies;

(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen fuel infrastructure;

(6) raise awareness of hydrogen technology among the public;

(7) facilitate identification of an optimum technology among competing alternatives;

(8) address distributed generation using renewable sources; and

(9) address applications specific to rural or remote locations, including isolated villages and islands, the National Park System, and tribal entities.

The Secretary shall give preference to projects which address multiple elements contained in paragraphs (1) through (9).

(d) DEPLOYMENT.—In carrying out the programs under this section, the Secretary shall, in partnership with the private sector, conduct activities to facilitate the deployment of hydrogen energy and energy infrastructure, fuel cells, and advanced vehicle technologies.

(e) FUNDING.—

(1) IN GENERAL.—The Secretary shall carry out the programs under this section using a competitive, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) RESEARCH CENTERS.—Activities under this section may be carried out by funding nationally recognized university-based or Federal laboratory research centers.

(f) COST SHARING.—

(1) 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. The Secretary may reduce or eliminate the non-Federal requirement under this paragraph if the Secretary determines that the research and development is of a basic or fundamental nature or involves technical analyses or educational activities.

(2) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this title, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this title to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this paragraph 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.

(3) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary may include personnel, services, equipment, and other resources.

(4) SIZE OF NON-FEDERAL SHARE.—The Secretary may consider the size of the non-Federal share in selecting projects.

(g) DISCLOSURE.—Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) relating to the protection of information shall apply to projects carried out through grants, cooperative agreements, or contracts under this title.

SEC. 804. INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the President shall establish an interagency task force chaired by the Secretary with representatives from each of the following:

(1) The Office of Science and Technology Policy within the Executive Office of the President.

(2) The Department of Transportation.

(3) The Department of Defense.

(4) The Department of Commerce (including the National Institute of Standards and Technology).

(5) The Department of State.

(6) The Environmental Protection Agency.

(7) The National Aeronautics and Space Administration.

(8) Other Federal agencies as the Secretary determines appropriate.

(b) DUTIES.—

(1) PLANNING.—The interagency task force shall work toward—

(A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydrogen-carrier fuels, including an infrastructure that supports buses and other fleet transportation;

(B) fuel cells in government and other applications, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels including hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety performance.

(2) ACTIVITIES.—The interagency task force may organize workshops and conferences, may issue publications, and may create databases to carry out its duties. The interagency task force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other advanced technologies, including the commercial capability of each technology for the economic and environmentally safe production, distribution, delivery, storage, and use of hydrogen;

(C) integrate technical and other information made available as a result of the programs and activities under this title;

(D) promote the marketplace introduction of infrastructure for hydrogen fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential end-users.

(c) AGENCY COOPERATION.—The heads of all agencies, including those whose agencies are not represented on the interagency task force, shall cooperate with and furnish information to the interagency task force, the Advisory Committee, and the Department.

SEC. 805. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Hydrogen Technical and Fuel Cell Advisory Committee is established to advise the Secretary on the programs and activities under this title.

(b) MEMBERSHIP.—

(1) MEMBERS.—The Advisory Committee shall be comprised of not fewer than 12 nor more than 25 members. The members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, government agencies, Federal laboratories, previous advisory panels, and financial, environmental, and other appropriate organizations based on the Department's assessment of the technical and other qualifications of committee members and the needs of the Advisory Committee.

(2) TERMS.—The term of a member of the Advisory Committee shall not be more than 3 years. The Secretary may appoint members of the Advisory Committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the Advisory Committee. A member of the Advisory Committee whose term is expiring may be reappointed.

(3) CHAIRPERSON.—The Advisory Committee shall have a chairperson, who is elected by the members from among their number.

(c) REVIEW.—The Advisory Committee shall review and make recommendations to the Secretary on—

(1) the implementation of programs and activities under this title;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydrogen energy and fuel cells; and

(3) the plan under section 802.

(d) RESPONSE.—

(1) CONSIDERATION OF RECOMMENDATIONS.—The Secretary shall consider, but need not adopt, any recommendations of the Advisory Committee under subsection (c).

(2) BIENNIAL REPORT.—The Secretary shall transmit a biennial report to Congress describing any recommendations made by the Advisory Committee since the previous report. The report shall include a description of how the Secretary has implemented or plans to implement the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be transmitted along with the President's budget proposal.

(e) SUPPORT.—The Secretary shall provide resources necessary in the judgment of the Secretary for the Advisory Committee to carry out its responsibilities under this title.

SEC. 806. EXTERNAL REVIEW.

(a) PLAN.—The Secretary shall enter into an arrangement with the National Academy of Sciences to review the plan prepared under section 802, which shall be completed not later than 6 months after the Academy receives the plan. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation of the reasons that a recommendation will not be implemented.

(b) ADDITIONAL REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy will review the programs under section 803 during the fourth year following the date of enactment of this Act. The Academy's review shall include the research priorities and technical milestones, and evaluate the progress toward achieving them. The review shall be completed not later than 5 years after the date of enactment of this Act. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation for the reasons that a recommendation will not be implemented.

SEC. 807. MISCELLANEOUS PROVISIONS.

(a) REPRESENTATION.—The Secretary may represent the United States interests with respect to activities and programs under this title, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, before governments and nongovernmental organizations including—

(1) other Federal, State, regional, and local governments and their representatives;

(2) industry and its representatives, including members of the energy and transportation industries; and

(3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

(b) REGULATORY AUTHORITY.—Nothing in this title shall be construed to alter the regulatory authority of the Department.

SEC. 808. SAVINGS CLAUSE.

Nothing in this title shall be construed to affect the authority of the Secretary of Transportation that may exist prior to the date of enactment of this Act with respect to—

(1) research into, and regulation of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49, United States Code;

(2) regulation of hazardous materials transportation under chapter 51 of title 49, United States Code;

(3) regulation of pipeline safety under chapter 601 of title 49, United States Code;

(4) encouragement and promotion of research, development, and deployment activities relating to advanced vehicle technologies under section 5506 of title 49, United States Code;

(5) regulation of motor vehicle safety under chapter 301 of title 49, United States Code;

(6) automobile fuel economy under chapter 329 of title 49, United States Code; or

(7) representation of the interests of the United States with respect to the activities and programs under the authority of title 49, United States Code.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this title, in addition to any amounts made available for these purposes under other Acts—

(1) $273,500,000 for fiscal year 2004;

(2) $375,000,000 for fiscal year 2005;
(3) $450,000,000 for fiscal year 2006;
(4) $500,000,000 for fiscal year 2007; and
(5) $550,000,000 for fiscal year 2008.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 901. GOALS.

(a) IN GENERAL.—The Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application to support Federal energy policy and programs by the Department. Such programs shall be 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 5-year 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.

(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.—

(1) NO NEW AUTHORITY OR REQUIREMENT.—Nothing in subsection (a) or the annually published goals shall—

(A) create any new—

(i) authority for any Federal agency; or

(ii) requirement for any other person;

(B) be used by a Federal agency to support the establishment of regulatory standards or regulatory requirements; or

(C) alter the authority of the Secretary to make grants or other awards.

(2) NO LIMITATION.—Nothing in this subsection shall be construed to limit the authority of the Secretary to impose conditions on grants or other awards based on the goals in subsection (a) or any subsequent modification thereto.

SEC. 902. DEFINITIONS.

For purposes of this title:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) DEPARTMENTAL MISSION.—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) INSTITUTION OF HIGHER EDUCATION.—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) NATIONAL LABORATORY.—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) NONMILITARY ENERGY LABORATORY.—The term ''nonmilitary energy laboratory'' means the laboratories listed in paragraph (4), except for those listed in subparagraphs (G), (H), and (N).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) SINGLE-PURPOSE RESEARCH FACILITY.—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. 904. 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.
(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 905—
(A) for fiscal year 2004, $20,000,000;
(B) for fiscal year 2005, $30,000,000;
(C) for fiscal year 2006, $50,000,000;
(D) for fiscal year 2007, $50,000,000; and
(E) for fiscal year 2008, $50,000,000.

(2) For activities under section 907—
(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 908—
(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.

(4) For activities under section 909, $2,000,000 for each of fiscal years 2005 through 2008.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for activities under section 905, $50,000,000 for each of fiscal years 2009 through 2013.

(d) LIMITATION ON USE OF FUNDS.—None of the funds authorized to be appropriated under this section may be used for—

(1) the issuance and implementation of energy efficiency regulations;

(2) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(4) the Federal Energy Management Program under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.).

SEC. 905. 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; and cost-competitive, and have less environmental impact.

(c) INDUSTRY ALLIANCE.—The Secretary shall, not later than 3 months after the date of enactment of this section, competitively select an Industry Alliance to represent participants that 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) IN GENERAL.—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) ASSISTANCE FROM THE INDUSTRY ALLIANCE.—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) AVAILABILITY OF INFORMATION AND ROADMAPS.—The information and roadmaps under paragraph (2) shall be available to the public and public response shall be solicited by the Secretary.

(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) INTELLECTUAL PROPERTY.—The Secretary may require, in accordance with the authorities provided in section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), that—

(1) for any new invention resulting from activities under subsection (d)—

(A) the Industry Alliance members that are active participants in research, development, and demonstration activities related to the advanced solid-state lighting technologies that are the subject of this section shall be granted first option to negotiate with the invention owner nonexclusive licenses and royalties for uses of the invention related to solid-state lighting on terms that are reasonable under the circumstances; and

(B)(i) for 1 year after a United States patent is issued for the invention, the patent holder shall not negotiate any license or royalty with any entity that is not a participant in the Industry Alliance described in subparagraph (A); and

(ii) during the year described in clause (i), the invention owner shall negotiate nonexclusive licenses and royalties in good faith with any interested participant in the Industry Alliance described in subparagraph (A); and

(2) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(g) 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. The Academy shall review the research priorities, technical milestones, and plans for technology transfer and progress towards achieving them. The Secretary shall consider the results of such reviews in evaluating the information obtained under subsection (d)(2).

(h) DEFINITIONS.—As used in this section:

(1) ADVANCED SOLID-STATE LIGHTING.—The term ''advanced solid-state lighting'' means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) RESEARCH.—The term ''research'' includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(3) INDUSTRY ALLIANCE.—The term ''Industry Alliance'' means an entity selected by the Secretary under subsection (c).

(4) WHITE LIGHT EMITTING DIODE.—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. 906. 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, working with the National Institute of Building Sciences, 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.—

(1) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Commerce and the Director of the Office of Science and Technology Policy, shall establish an advisory committee to—

(A) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(B) review and provide recommendations on the plan described in subsection (c).

(2) MEMBERSHIP.—Membership of the advisory committee shall include representatives with a broad range of appropriate expertise, including expertise in—

(A) building research and technology;

(B) architecture, engineering, and building materials and systems; and

(C) the residential, commercial, and industrial sectors of the construction industry.

(f) CONSTRUCTION.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 907. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

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

(1) ASSOCIATED EQUIPMENT.—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.

(2) BATTERY.—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.

(b) PROGRAM.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries if the Secretary finds that there are sufficient numbers of such batteries to support the program. The 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 enactment of this Act, if the Secretary finds under subsection (b) that there are sufficient numbers of batteries to support the program, 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) IN GENERAL.—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, subject to the availability of appropriations.

(2) DIVERSITY; ENVIRONMENTAL EFFECT.—In selecting proposals, the Secretary shall consider diversity of battery type, geographic and climatic diversity, and life-cycle environmental effects of the approaches.

(3) LIMITATION.—No 1 project selected under this section shall receive more than 25 percent of the funds authorized for the program under this section.

(4) OPTIMIZATION OF FEDERAL RESOURCES.—The Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) OTHER CRITERIA.—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;

(2) the proposer provide at least 50 percent of the costs associated with the proposal; and

(3) the proposer provide to the Secretary such information regarding the disposal of the batteries as the Secretary may require to ensure that the proposer disposes of the batteries in accordance with applicable law.

SEC. 908. 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 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.

SEC. 909. ELECTRIC MOTOR CONTROL TECHNOLOGY.

The Secretary shall conduct a research, development, demonstration, and commercial application program on advanced control devices to improve the energy efficiency of electric motors used in heating, ventilation, air conditioning, and comparable systems.

SEC. 910. ADVANCED ENERGY TECHNOLOGY TRANSFER CENTERS.

(a) GRANTS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall make grants to nonprofit institutions, State and local governments, or universities (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers.

(b) ACTIVITIES.—

(1) IN GENERAL.—Each Center shall operate a program to encourage demonstration and commercial application of advanced energy methods and technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use.

(2) ADVISORY PANEL.—Each Center shall establish an advisory panel to advise the Center on how best to accomplish the activities under paragraph (1).

(c) APPLICATION.—A person seeking a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this section to an entity already in existence if the entity is otherwise eligible under this section.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the following criteria, at a minimum:

(1) The ability of the applicant to carry out the activities in subsection (b).

(2) The extent to which the applicant will coordinate the activities of the Center with other entities, such as State and local governments, utilities, and educational and research institutions.

(e) MATCHING FUNDS.—The Secretary shall require a non-Federal matching requirement of at least 50 percent of the costs of establishing and operating each Center.

(f) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to advise the Secretary on the establishment of

Centers under this section. The advisory committee shall be composed of individuals with expertise in the area of advanced energy methods and technologies, including at least 1 representative from—

(1) State or local energy offices;

(2) energy professionals;

(3) trade or professional associations;

(4) architects, engineers, or construction professionals;

(5) manufacturers;

(6) the research community; and

(7) nonprofit energy or environmental organizations.

(g) DEFINITIONS.—For purposes of this section:

(1) ADVANCED ENERGY METHODS AND TECHNOLOGIES.—The term ''advanced energy methods and technologies'' means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies, and life-cycle analysis of energy use.

(2) CENTER.—The term ''Center'' means an Advanced Energy Technology Transfer Center established pursuant to this section.

(3) DISTRIBUTED GENERATION.—The term ''distributed generation'' means an electric power generation facility that is designed to serve retail electric consumers at or near the facility site.

Subtitle B—Distributed Energy and Electric Energy Systems

SEC. 911. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—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:

(1) For fiscal year 2004, $190,000,000.

(2) For fiscal year 2005, $200,000,000.

(3) For fiscal year 2006, $220,000,000.

(4) For fiscal year 2007, $240,000,000.

(5) For fiscal year 2008, $260,000,000.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under subsection (a), $20,000,000 for each of fiscal years 2004 and 2005 is authorized for activities under section 914.

SEC. 912. HYBRID DISTRIBUTED POWER SYSTEMS.

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and transmit to Congress a strategy for a comprehensive research, development, demonstration, and commercial application program to develop hybrid distributed power systems that combine—

(1) 1 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.

(b) CONTENTS.—The strategy shall—

(1) identify the needs best met with such hybrid distributed power systems and the technological barriers to the use of such systems;

(2) provide for the development of methods to design, test, integrate into systems, and operate such hybrid distributed power systems;

(3) include, as appropriate, research, development, demonstration, and commercial application on related technologies needed for the adoption of such hybrid distributed power systems, including energy storage devices and environmental control technologies;

(4) include research, development, demonstration, and commercial application of interconnection technologies for communications and controls of distributed generation architectures, particularly technologies promoting real-time response to power market information and physical conditions on the electrical grid; and

(5) describe how activities under the strategy will be integrated with other research, development, demonstration, and commercial application activities supported by the Department related to electric power technologies.

SEC. 913. 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. 914. 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—

(1) the use of small-scale combined heat and power in residential heating appliances; and

(2) the use of excess power to operate other appliances within the residence and supply excess generated power to the power grid.

SEC. 915. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAM.

The Secretary, within the sums authorized under section 911(a), 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. 916. RECIPROCATING POWER.

The Secretary shall conduct a research, development, and demonstration program regarding fuel system optimization and emissions reduction after-treatment technologies for industrial reciprocating engines. Such after-treatment technologies shall use processes that reduce emissions by recirculating exhaust gases and shall be designed to be retrofitted to any new or existing diesel or natural gas engine used for power generation, peaking power generation, combined heat and power, or compression.

Subtitle C—Renewable Energy

SEC. 918. 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.

(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 919:

(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.

(5) For fiscal year 2008, $192,000,000.

(c) CONCENTRATING SOLAR POWER.—From amounts authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 920:

(1) For fiscal year 2004, $20,000,000.

(2) For fiscal year 2005, $40,000,000.

(3) For each of fiscal years 2006, 2007 and 2008, $50,000,000.

(d) PUBLIC BUILDINGS.—From the amounts authorized under subsection (a), $30,000,000 for each of the fiscal years 2004 through 2008 are authorized to be appropriated to carry out section 922.

(e) LIMITS ON USE OF FUNDS.—

(1) NO FUNDS FOR RENEWABLE SUPPORT AND IMPLEMENTATION.—None of the funds authorized to be appropriated under this section may be used for Renewable Support and Implementation.

(2) GRANTS.—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.

(3) REGIONAL FIELD VERIFICATION PROGRAM.—Of the funds authorized under subsection (a), not less than $4,000,000 for each fiscal year shall be made available for the Regional Field Verification Program of the Department.

(4) OFF-STREAM PUMPED STORAGE HYDROPOWER.—Of the funds authorized under subsection (a), such sums as may be necessary shall be made available for demonstration projects of off-stream pumped storage hydropower.

(f) CONSULTATION.—In carrying out this subtitle, 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. 919. BIOENERGY PROGRAMS.

(a) DEFINITIONS.—For the purposes of this section:

(1) The term ''agricultural byproducts'' includes waste products, including poultry fat and poultry waste.

(2) The term ''cellulosic biomass'' means any portion of a crop containing lignocellulose or hemicellulose, including barley grain, grapeseed, forest thinnings, rice bran, rice hulls, rice straw, soybean matter, and sugarcane bagasse, or any crop grown specifically for the purpose of producing cellulosic feedstocks.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower energy systems;

(2) biofuels;

(3) bio-based products;

(4) integrated biorefineries that may produce biopower, biofuels, and bio-based products;

(5) cross-cutting research and development in feedstocks and enzymes; and

(6) economic analysis.

(c) BIOFUELS AND BIO-BASED PRODUCTS.—The goals of the biofuels and bio-based products programs shall be to develop, in partnership with industry—

(1) advanced biochemical and thermochemical conversion technologies capable of making biofuels that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles, and bio-based products from a variety of feedstocks, including grains, cellulosic biomass, and other agricultural byproducts; and

(2) advanced biotechnology processes capable of making biofuels and bio-based products with emphasis on development of biorefinery technologies using enzyme-based processing systems.

SEC. 920. CONCENTRATING SOLAR POWER RESEARCH AND DEVELOPMENT 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 cogeneration 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 thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;

(3) evaluation of materials issues for the thermochemical cycles described in paragraph (2);

(4) system architectures and economics studies; and

(5) coordination with activities in the Advanced Reactor Hydrogen Cogeneration Project on high temperature materials, thermochemical cycles, and economic issues.

(b) ASSESSMENT.—In carrying out the program under this section, the Secretary shall—

(1) 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 Department-funded reviews of that report; and

(2) provide an assessment of the potential impact of the 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 Act, the Secretary shall provide a report to Congress on the economic and technical potential for electricity or hydrogen production, with or without cogeneration, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity or hydrogen from concentrating solar power.

SEC. 921. MISCELLANEOUS PROJECTS.

The Secretary may conduct research, development, demonstration, and commercial application programs for—

(1) ocean energy, including wave energy; and

(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.

SEC. 922. RENEWABLE ENERGY IN PUBLIC BUILDINGS.

(a) DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM.—The Secretary shall establish a program for the demonstration of innovative technologies for solar and other renewable energy sources in buildings owned or operated by a State or local government, and for the dissemination of information resulting from such demonstration to interested parties.

(b) LIMIT ON FEDERAL FUNDING.—The Secretary shall provide under this section no more than 40 percent of the incremental costs of the solar or other renewable energy source project funded.

(c) REQUIREMENT.—As part of the application for awards under this section, the Secretary shall require all applicants—

(1) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(2) to state how they expect any award to further their transition to the significant use of renewable energy.

SEC. 923. STUDY OF MARINE RENEWABLE ENERGY OPTIONS.

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study on—

(1) the feasibility of various methods of renewable generation of energy from the ocean, including energy from waves, tides, currents, and thermal gradients; and

(2) the research, development, demonstration, and commercial application activities required to make marine renewable energy generation competitive with other forms of electricity generation.

(b) TRANSMITTAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit the study to Congress along with the Secretary's recommendations for implementing the results of the study.

Subtitle D—Nuclear Energy

SEC. 924. 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, $355,000,000.

(3) For fiscal year 2006, $430,000,000.

(4) For fiscal year 2007, $455,000,000.

(5) For fiscal year 2008, $545,000,000.

(b) NUCLEAR INFRASTRUCTURE SUPPORT.—The following sums are authorized to be appropriated to the Secretary for activities under section 925(e):

(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.

(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 926—

(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 927—

(A) for fiscal year 2004, $35,200,000;

(B) for fiscal year 2005, $44,350,000;

(C) for fiscal year 2006, $49,200,000;

(D) for fiscal year 2007, $54,950,000; and

(E) for fiscal year 2008, $60,000,000.

(3) For activities under section 929, for each of fiscal years 2004 through 2008, $6,000,000.

(d) LIMITATION ON USE OF FUNDS.—None of the funds authorized under this section may be used for decommissioning the Fast Flux Test Facility.

SEC. 925. NUCLEAR ENERGY RESEARCH AND DEVELOPMENT 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. Whatever type of reactor is chosen for the hydrogen cogeneration project under subtitle C of title VI, that type shall not be addressed in the Program under this section. The Program shall include—

(1) support for first-of-a-kind engineering design and certification expenses of advanced nuclear power plant designs, which offer improved safety and economics over current conventional plants and the promise of near-term to medium-term commercial deployment;

(2) action by the Secretary to encourage domestic power companies to install new nuclear plant capacity as soon as possible;

(3) utilization of the expertise and capabilities of industry, universities, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(4) consideration of proliferation-resistant passively-safe, small reactors suitable for long-term electricity production without refueling and suitable for use in remote installations;

(5) participation of international collaborators in research, development, design, and deployment efforts as appropriate and consistent with United States interests in nonproliferation of nuclear weapons;

(6) encouragement for university and industry participation; and

(7) selection of projects such as to strengthen the competitive position of the domestic nuclear power industrial infrastructure.

(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) 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 Congress for fiscal year 2006.

SEC. 926. 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 that 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 the 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. 927. 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 Office of Nuclear Energy, Science, and Technology and the Office of Civilian Radioactive Waste Management. The Secretary shall support communication and outreach related to nuclear science, engineering, and nuclear waste management, consistent with interests of the United States in nonproliferation of nuclear weapons capabilities.

(c) STRENGTHENING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Activities under this section may include—

(1) converting research and training 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 research and training reactors as part of a student training program; and

(3) providing funding, through the Innovations in Nuclear Infrastructure and Education Program, 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 and training reactor at an institution of higher education used in the research project.

SEC. 928. SECURITY OF REACTOR DESIGNS.

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 reactor designs from natural phenomena and the security of reactor designs from deliberate attacks.

SEC. 929. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) STUDY.—The Secretary shall conduct a study and provide a report to Congress not later than August 1, 2004. The study shall—

(1) survey industrial applications of large radioactive sources, including well-logging sources;

(2) review current domestic and international Department, Department of Defense, Department of State, and commercial programs to manage and dispose of radioactive sources;

(3) discuss disposal options and practices for currently deployed or future sources and, if deficiencies are noted in existing disposal options or practices for either deployed or future sources, recommend options to remedy deficiencies; and

(4) develop a program plan for research and development to develop alternatives to large industrial sources that reduce safety, environmental, or proliferation risks to either workers using the sources or the public.

(b) PROGRAM.—The Secretary shall establish a research and development program to implement the program plan developed under subsection (a)(4). The program shall include miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site.

SEC. 930. GEOLOGICAL ISOLATION OF SPENT FUEL.

The Secretary shall conduct a study to determine the feasibility of deep borehole disposal of spent nuclear fuel and high-level radioactive waste. The study shall emphasize geological, chemical, and hydrological characterization of, and design of engineered structures for, deep borehole environments. Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit the study to Congress.

Subtitle E—Fossil Energy

PART I—RESEARCH PROGRAMS

SEC. 931. 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 part:

(1) For fiscal year 2004, $530,000,000.

(2) For fiscal year 2005, $556,000,000.

(3) For fiscal year 2006, $583,000,000.

(4) For fiscal year 2007, $611,000,000.

(5) For fiscal year 2008, $626,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 932(b)(2), $28,000,000 for each of the fiscal years 2004 through 2008.

(2) For activities under section 934—

(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 935—

(A) for fiscal year 2004, $259,000,000;

(B) for fiscal year 2005, $272,000,000;

(C) for fiscal year 2006, $285,000,000;

(D) for fiscal year 2007, $298,000,000; and

(E) for fiscal year 2008, $308,000,000.

(4) For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d), $25,000,000 for each of fiscal years 2004 through 2008.

(5) For activities under section 933, $4,000,000 for fiscal year 2004 and $2,000,000 for each of fiscal years 2005 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 (42 U.S.C. 7144d), $25,000,000 for each of fiscal years 2009 through 2012.

(d) LIMITS ON USE OF FUNDS.—

(1) NO FUNDS FOR CERTAIN PROGRAMS.—None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) INSTITUTIONS OF HIGHER EDUCATION.—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. 932. 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 oil shale;

(7) related environmental research; and

(8) compressed natural gas marine transport.

(b) FUEL CELLS.—

(1) IN GENERAL.—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) IMPROVED MANUFACTURING PRODUCTION AND PROCESSES.—The demonstrations under paragraph (1) shall include fuel cell 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 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 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) NATIONAL CENTER OR CONSORTIUM OF EXCELLENCE.—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) PROGRAM.—The center or consortium shall conduct a program of research, development, demonstration, and commercial application on integrating the following 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.

(F) Education on energy and power generation issues.

SEC. 933. TECHNOLOGY TRANSFER.

The Secretary shall establish a competitive program to award a contract to a nonprofit entity for the purpose of transferring technologies developed with public funds. The entity selected under this section shall have experience in offshore oil and gas technology research management, in the transfer of technologies developed with public funds to the offshore and maritime industry, and in management of an offshore and maritime industry consortium. The program consortium selected under section 942 shall not be eligible for selection under this section. When appropriate, the Secretary shall consider utilizing the entity selected under this section when implementing the activities authorized by section 975.

SEC. 934. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program of 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 from 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 electromagnetic wave imaging and radar techniques for horizontal drilling in coal beds 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. 935. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the programs authorized under title IV, the Secretary shall conduct a program of technology research, development, 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;

(8) advanced coal-related research;

(9) advanced separation technologies; and

(10) a joint project for permeability enhancement in coals for natural gas production and carbon dioxide sequestration.

(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 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 Act, 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 Act and every 4 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 subtitle A of title IV.

SEC. 936. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary, 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.

SEC. 937. FISCHER-TROPSCH DIESEL FUEL LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF FISCHER-TROPSCH DIESEL FUEL.—In this section, the term ''Fischer-Tropsch diesel fuel'' means diesel fuel that—

(1) contains less than 10 parts per million sulfur; and

(2) is produced through the Fischer-Tropsch liquification process from coal or waste from coal that was mined in the United States.

(b) LOAN GUARANTEES.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private lending institutions for the construction of facilities for the production of Fischer-Tropsch diesel fuel and commercial byproducts of that production.

(2) REQUIREMENTS.—The Secretary may provide a loan guarantee under paragraph (1) 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.

(3) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(A) meet all 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 availability of domestic coal or coal waste for conversion; or

(ii) a projected high level of demand for Fischer-Tropsch diesel fuel or other commercial byproducts of the facility.

(4) MATURITY.—A loan guaranteed under paragraph (1) shall have a maturity of not more than 25 years.

(5) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under paragraph (1) shall provide that no provision of the loan may be amended or waived without the consent of the Secretary.

(6) GUARANTEE FEE.—A recipient of a loan guarantee under paragraph (1) shall pay the Secretary an amount to be determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(7) FULL FAITH AND CREDIT.—

(A) IN GENERAL.—The full faith and credit of the United States is pledged to payment of loan guarantees made under this section.

(B) CONCLUSIVE EVIDENCE.—Any loan guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

(C) VALIDITY.—The validity of a loan guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(8) REPORTS.—Until each guaranteed loan under this section is repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(10) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a new loan guarantee under paragraph (1) terminates on the date that is 5 years after the date of enactment of this Act.

PART II—ULTRA-DEEPWATER AND UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES

SEC. 941. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall carry out a program under this part of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resource exploration and production, including addressing the technology challenges for small producers, safe operations, and environmental mitigation (including reduction of greenhouse gas emissions and sequestration of carbon).

(b) PROGRAM ELEMENTS.—The program under this part shall address the following areas, including improving safety and minimizing environmental impacts of activities within each area:

(1) Ultra-deepwater technology, including drilling to formations in the Outer Continental Shelf to depths greater than 15,000 feet.

(2) Ultra-deepwater architecture.

(3) Unconventional natural gas and other petroleum resource exploration and production technology, including the technology challenges of small producers.

(c) LIMITATION ON LOCATION OF FIELD ACTIVITIES.—Field activities under the program under this part shall be carried out only—

(1) in—

(A) areas in the territorial waters of the United States not under any Outer Continental Shelf moratorium as of September 30, 2002;

(B) areas onshore in the United States on public land administered by the Secretary of the Interior available for oil and gas leasing, where consistent with applicable law and land use plans; and

(C) areas onshore in the United States on State or private land, subject to applicable law; and

(2) with the approval of the appropriate Federal or State land management agency or private land owner.

(d) RESEARCH AT NATIONAL ENERGY TECHNOLOGY LABORATORY.—The Secretary, through the National Energy Technology Laboratory, shall carry out research complementary to research under subsection (b).

(e) CONSULTATION WITH SECRETARY OF THE INTERIOR.—In carrying out this part, the Secretary shall consult regularly with the Secretary of the Interior.

SEC. 942. ULTRA-DEEPWATER PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out the activities under section 941(a), to maximize the use of the ultra-deepwater natural gas and other petroleum resources of the United States by increasing the supply of such resources, through reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) ROLE OF THE SECRETARY.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this section.

(c) ROLE OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary may contract with a consortium to—

(A) manage awards pursuant to subsection (f)(4);

(B) make recommendations to the Secretary for project solicitations;

(C) disburse funds awarded under subsection (f) as directed by the Secretary in accordance with the annual plan under subsection (e); and

(D) carry out other activities assigned to the program consortium by this section.

(2) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(3) CONFLICT OF INTEREST.—

(A) PROCEDURES.—The Secretary shall establish procedures—

(i) to ensure that each board member, officer, or employee of the program consortium who is in a decision-making capacity under subsection (f)(3) or (4) shall disclose to the Secretary any financial interests in, or financial relationships with, applicants for or recipients of awards under this section, including those of his or her spouse or minor child, unless such relationships or interests would be considered to be remote or inconsequential; and

(ii) to require any board member, officer, or employee with a financial relationship or interest disclosed under clause (i) to recuse himself or herself from any review under subsection (f)(3) or oversight under subsection (f)(4) with respect to such applicant or recipient.

(B) FAILURE TO COMPLY.—The Secretary may disqualify an application or revoke an award under this section if a board member, officer, or employee has failed to comply with procedures required under subparagraph (A)(ii).

(d) SELECTION OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall select the program consortium through an open, competitive process.

(2) MEMBERS.—The program consortium may include corporations, trade associations, institutions of higher education, National Laboratories, or other research institutions. After submitting a proposal under paragraph (4), the program consortium may not add members without the consent of the Secretary.

(3) TAX STATUS.—The program consortium shall be an entity that is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986.

(4) SCHEDULE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall solicit proposals from eligible consortia to perform the duties in subsection (c)(1), which shall be submitted not later than 360 days after the date of enactment of this Act. The Secretary shall select the program consortium not later than 18 months after such date of enactment.

(5) APPLICATION.—Applicants shall submit a proposal including such information as the Secretary may require. At a minimum, each proposal shall—

(A) list all members of the consortium;

(B) fully describe the structure of the consortium, including any provisions relating to intellectual property; and

(C) describe how the applicant would carry out the activities of the program consortium under this section.

(6) ELIGIBILITY.—To be eligible to be selected as the program consortium, an applicant must be an entity whose members collectively have demonstrated capabilities in planning and managing research, development, demonstration, and commercial application programs in natural gas or other petroleum exploration or production.

(7) CRITERION.—The Secretary shall consider the amount of the fee an applicant proposes to receive under subsection (g) in selecting a consortium under this section.

(e) ANNUAL PLAN.—

(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraph (2).

(2) DEVELOPMENT.—

(A) SOLICITATION OF RECOMMENDATIONS.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The Secretary may request that the program consortium submit its recommendations in the form of a draft annual plan.

(B) SUBMISSION OF RECOMMENDATIONS; OTHER COMMENT.—The Secretary shall submit the recommendations of the program consortium under subparagraph (A) to the Ultra-Deepwater Advisory Committee established under section 945(a) for review, and such Advisory Committee shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) CONSULTATION.—The Secretary shall consult regularly with the program consortium throughout the preparation of the annual plan.

(3) PUBLICATION.—The Secretary shall transmit to Congress and publish in the Federal Register the annual plan, along with any written comments received under paragraph (2)(A) and (B).

(4) CONTENTS.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(A) a list of any solicitations for awards that the Secretary plans to issue to carry out research, development, demonstration, or commercial application activities, including the topics for such work, who would be eligible to apply, selection criteria, and the duration of awards; and

(B) a description of the activities expected of the program consortium to carry out subsection (f)(4).

(5) ESTIMATES OF INCREASED ROYALTY RECEIPTS.—The Secretary, in consultation with the Secretary of the Interior, shall provide an annual report to Congress with the President's budget on the estimated cumulative increase in Federal royalty receipts (if any) resulting from the implementation of this part. The initial report under this paragraph shall be submitted in the first President's budget following the completion of the first annual plan required under this subsection.

(f) AWARDS.—

(1) IN GENERAL.—The Secretary shall make awards to carry out research, development, demonstration, and commercial application activities under the program under this section. The program consortium shall not be eligible to receive such awards, but members of the program consortium may receive such awards.

(2) PROPOSALS.—The Secretary shall solicit proposals for awards under this subsection in such manner and at such time as the Secretary may prescribe, in consultation with the program consortium.

(3) REVIEW.—The Secretary shall make awards under this subsection through a competitive process, which shall include a review by individuals selected by the Secretary. Such individuals shall include, for each application, Federal officials, the program consortium, and non-Federal experts who are not board members, officers, or employees of the program consortium or of a member of the program consortium.

(4) OVERSIGHT.—

(A) IN GENERAL.—The program consortium shall oversee the implementation of awards under this subsection, consistent with the annual plan under subsection (e), including disbursing funds and monitoring activities carried out under such awards for compliance with the terms and conditions of the awards.

(B) EFFECT.—Nothing in subparagraph (A) shall limit the authority or responsibility of the Secretary to oversee awards, or limit the authority of the Secretary to review or revoke awards.

(C) PROVISION OF INFORMATION.—The Secretary shall provide to the program consortium the information necessary for the program consortium to carry out its responsibilities under this paragraph.

(g) ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—To compensate the program consortium for carrying out its activities under this section, the Secretary shall provide to the program consortium funds sufficient to administer the program. This compensation may include a management fee consistent with Department of Energy contracting practices and procedures.

(2) ADVANCE.—The Secretary shall advance funds to the program consortium upon selection of the consortium, which shall be deducted from amounts to be provided under paragraph (1).

(h) AUDIT.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds provided to the program consortium, and funds provided under awards made under subsection (f), have been expended in a manner consistent with the purposes and requirements of this part. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

SEC. 943. UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out activities under subsection 941(b)(3), to maximize the use of the onshore unconventional natural gas and other petroleum resources of the United States, by increasing the supply of such resources, through reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) AWARDS.—

(1) IN GENERAL.—The Secretary shall carry out this section through awards to research consortia made through an open, competitive process. As a condition of award of funds, qualified research consortia shall—

(A) demonstrate capability and experience in unconventional onshore natural gas or other petroleum research and development;

(B) provide a research plan that demonstrates how additional natural gas or oil production will be achieved; and

(C) at the request of the Secretary, provide technical advice to the Secretary for the purposes of developing the annual plan required under subsection (e).

(2) PRODUCTION POTENTIAL.—The Secretary shall seek to ensure that the number and types of awards made under this subsection have reasonable potential to lead to additional oil and natural gas production on Federal lands.

(3) SCHEDULE.—To carry out this subsection, not later than 180 days after the date of enactment of this Act, the Secretary

shall solicit proposals from research consortia, which shall be submitted not later than 360 days after the date of enactment of this Act. The Secretary shall select the first group of research consortia to receive awards under this subsection not later than 18 months after such date of enactment.

(c) AUDIT.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds provided under awards made under this section have been expended in a manner consistent with the purposes and requirements of this part. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

(d) FOCUS AREAS FOR AWARDS.—

(1) UNCONVENTIONAL RESOURCES.—Awards from allocations under section 949(d)(2) shall focus on areas including advanced coalbed methane, deep drilling, natural gas production from tight sands, natural gas production from gas shales, stranded gas, innovative exploration and production techniques, enhanced recovery techniques, and environmental mitigation of unconventional natural gas and other petroleum resources exploration and production.

(2) SMALL PRODUCERS.—Awards from allocations under section 949(d)(3) shall be made to consortia consisting of small producers or organized primarily for the benefit of small producers, and shall focus on areas including complex geology involving rapid changes in the type and quality of the oil and gas reservoirs across the reservoir; low reservoir pressure; unconventional natural gas reservoirs in coalbeds, deep reservoirs, tight sands, or shales; and unconventional oil reservoirs in tar sands and oil shales.

(e) ANNUAL PLAN.—

(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraph (2).

(2) DEVELOPMENT.—

(A) WRITTEN RECOMMENDATIONS.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the research consortia receiving awards under subsection (b) and the Unconventional Resources Technology Advisory Committee for each element to be addressed in the plan, including those described in subparagraph (D).

(B) CONSULTATION.—The Secretary shall consult regularly with the research consortia throughout the preparation of the annual plan.

(C) PUBLICATION.—The Secretary shall transmit to Congress and publish in the Federal Register the annual plan, along with any written comments received under subparagraph (A).

(D) CONTENTS.—The annual plan shall describe the ongoing and prospective activities under this section and shall include a list of any solicitations for awards that the Secretary plans to issue to carry out research, development, demonstration, or commercial application activities, including the topics for such work, who would be eligible to apply, selection criteria, and the duration of awards.

(3) ESTIMATES OF INCREASED ROYALTY RECEIPTS.—The Secretary, in consultation with the Secretary of the Interior, shall provide an annual report to Congress with the President's budget on the estimated cumulative increase in Federal royalty receipts (if any) resulting from the implementation of this part. The initial report under this paragraph shall be submitted in the first President's budget following the completion of the first annual plan required under this subsection.

(f) ACTIVITIES BY THE UNITED STATES GEOLOGICAL SURVEY.—The Secretary of the Interior, through the United States Geological Survey, shall, where appropriate, carry out programs of long-term research to complement the programs under this section.

SEC. 944. ADDITIONAL REQUIREMENTS FOR AWARDS.

(a) DEMONSTRATION PROJECTS.—An application for an award under this part for a demonstration project shall describe with specificity the intended commercial use of the technology to be demonstrated.

(b) FLEXIBILITY IN LOCATING DEMONSTRATION PROJECTS.—Subject to the limitation in section 941(c), a demonstration project under this part relating to an ultra-deepwater technology or an ultra-deepwater architecture may be conducted in deepwater depths.

(c) INTELLECTUAL PROPERTY AGREEMENTS.—If an award under this part is made to a consortium (other than the program consortium), the consortium shall provide to the Secretary a signed contract agreed to by all members of the consortium describing the rights of each member to intellectual property used or developed under the award.

(d) TECHNOLOGY TRANSFER.—2.5 percent of the amount of each award made under this part shall be designated for technology transfer and outreach activities under this title.

(e) COST SHARING REDUCTION FOR INDEPENDENT PRODUCERS.—In applying the cost sharing requirements under section 972 to an award under this part the Secretary may reduce or eliminate the non-Federal requirement if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project.

SEC. 945. ADVISORY COMMITTEES.

(a) ULTRA-DEEPWATER ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Ultra-Deepwater Advisory Committee.

(2) MEMBERSHIP.—The advisory committee under this subsection shall be composed of members appointed by the Secretary including—

(A) individuals with extensive research experience or operational knowledge of offshore natural gas and other petroleum exploration and production;

(B) individuals broadly representative of the affected interests in ultra-deepwater natural gas and other petroleum production, including interests in environmental protection and safe operations;

(C) no individuals who are Federal employees; and

(D) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The advisory committee under this subsection shall—

(A) advise the Secretary on the development and implementation of programs under this part related to ultra-deepwater natural gas and other petroleum resources; and

(B) carry out section 942(e)(2)(B).

(4) COMPENSATION.—A member of the advisory committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(b) UNCONVENTIONAL RESOURCES TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Unconventional Resources Technology Advisory Committee.

(2) MEMBERSHIP.—The advisory committee under this subsection shall be composed of members appointed by the Secretary including—

(A) a majority of members who are employees or representatives of independent producers of natural gas and other petroleum, including small producers;

(B) individuals with extensive research experience or operational knowledge of unconventional natural gas and other petroleum resource exploration and production;

(C) individuals broadly representative of the affected interests in unconventional natural gas and other petroleum resource exploration and production, including interests in environmental protection and safe operations; and

(D) no individuals who are Federal employees.

(3) DUTIES.—The advisory committee under this subsection shall advise the Secretary on the development and implementation of activities under this part related to unconventional natural gas and other petroleum resources.

(4) COMPENSATION.—A member of the advisory committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(c) PROHIBITION.—No advisory committee established under this section shall make recommendations on funding awards to particular consortia or other entities, or for specific projects.

SEC. 946. LIMITS ON PARTICIPATION.

An entity shall be eligible to receive an award under this part only if the Secretary finds—

(1) that the entity's participation in the program under this part would be in the economic interest of the United States; and

(2) that either—

(A) the entity is a United States-owned entity organized under the laws of the United States; or

(B) the entity is organized under the laws of the United States and has a parent entity organized under the laws of a country that affords—

(i) to United States-owned entities opportunities, comparable to those afforded to any other entity, to participate in any cooperative research venture similar to those authorized under this part;

(ii) to United States-owned entities local investment opportunities comparable to those afforded to any other entity; and

(iii) adequate and effective protection for the intellectual property rights of United States-owned entities.

SEC. 947. SUNSET.

The authority provided by this part shall terminate on September 30, 2011.

SEC. 948. DEFINITIONS.

In this part:

(1) DEEPWATER.—The term ''deepwater'' means a water depth that is greater than 200 but less than 1,500 meters.

(2) INDEPENDENT PRODUCER OF OIL OR GAS.—

(A) IN GENERAL.—The term ''independent producer of oil or gas'' means any person that produces oil or gas other than a person to whom subsection (c) of section 613A of the Internal Revenue Code of 1986 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d) of such Code.

(B) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of subparagraph (A), paragraphs (2) and (4) of section 613A(d) of the Internal Revenue Code of 1986 shall be applied by substituting ''calendar year'' for ''taxable year'' each place it appears in such paragraphs.

(3) PROGRAM CONSORTIUM.—The term ''program consortium'' means the consortium selected under section 942(d).

(4) REMOTE OR INCONSEQUENTIAL.—The term ''remote or inconsequential'' has the meaning given that term in regulations issued by the Office of Government Ethics under section 208(b)(2) of title 18, United States Code.

(5) SMALL PRODUCER.—The term ''small producer'' means an entity organized under the laws of the United States with production levels of less than 1,000 barrels per day of oil equivalent.

(6) ULTRA-DEEPWATER.—The term ''ultra-deepwater'' means a water depth that is equal to or greater than 1,500 meters.

(7) ULTRA-DEEPWATER ARCHITECTURE.—The term ''ultra-deepwater architecture'' means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(8) ULTRA-DEEPWATER TECHNOLOGY.—The term ''ultra-deepwater technology'' means a discrete technology that is specially suited to address 1 or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(9) UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCE.—The term ''unconventional natural gas and other petroleum resource'' means natural gas and other petroleum resource located onshore in an economically inaccessible geological formation, including resources of small producers.

SEC. 949. FUNDING.

(a) IN GENERAL.—

(1) OIL AND GAS LEASE INCOME.—For each of fiscal years 2004 through 2013, from any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil and gas leases issued under the Outer Continental Shelf Lands Act and the Mineral Leasing Act which are deposited in the Treasury, and after distribution of any such funds as described in subsection (c), $150,000,000 shall be deposited into the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund (in this section referred to as the Fund). For purposes of this section, the term ''royalties'' excludes proceeds from the sale of royalty production taken in kind and royalty production that is transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)).

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts described in paragraph (1), there are authorized to be appropriated to the Secretary, to be deposited in the Fund, $50,000,000 for each of the fiscal years 2004 through 2013, to remain available until expended.

(b) OBLIGATIONAL AUTHORITY.—Monies in the Fund shall be available to the Secretary for obligation under this part without fiscal year limitation, to remain available until expended.

(c) PRIOR DISTRIBUTIONS.—The distributions described in subsection (a) are those required by law—

(1) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(2) to other funds receiving monies from Federal oil and gas leasing programs, including—

(A) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(B) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5(c));

(C) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(D) the Secure Energy Reinvestment Fund.

(d) ALLOCATION.—Amounts obligated from the Fund under this section in each fiscal year shall be allocated as follows:

(1) 50 percent shall be for activities under section 942.

(2) 35 percent shall be for activities under section 943(d)(1).

(3) 10 percent shall be for activities under section 943(d)(2).

(4) 5 percent shall be for research under section 941(d).

(e) FUND.—There is hereby established in the Treasury of the United States a separate fund to be known as the ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund''.

Subtitle F—Science

SEC. 951. 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 958(c)(2)(C), and including basic energy sciences, advanced scientific 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, $4,618,000,000.

(4) For fiscal year 2007, $5,310,000,000.

(5) For fiscal year 2008, $5,800,000,000.

(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 sections 952 and 953—

(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 956—

(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 957—

(A) for fiscal year 2004, $270,000,000;

(B) for fiscal year 2005, $292,000,000;

(C) for fiscal year 2006, $322,000,000;

(D) for fiscal year 2007, $355,000,000; and

(E) for fiscal year 2008, $390,000,000.

(5) For activities under section 957(c), from the amounts authorized under paragraph (4) of this subsection—

(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 959—

(A) for fiscal year 2004, $100,000,000; and

(B) for fiscal years 2005 through 2008, such sums as may be necessary.

(7) For activities in the Energy-Water Supply Program under section 961, $30,000,000 for each of fiscal years 2004 through 2008.

(c) ITER CONSTRUCTION.—In addition to the funds authorized under subsection (b)(1), such sums as may be necessary for costs associated with ITER construction, consistent with limitations under section 952.

SEC. 952. UNITED STATES PARTICIPATION IN ITER.

(a) IN GENERAL.—The United States may participate in ITER in accordance with the provisions of this section.

(b) AGREEMENT.—

(1) IN GENERAL.—The Secretary is authorized to negotiate an agreement for United States participation in ITER.

(2) CONTENTS.—Any agreement for United States participation in ITER shall, at a minimum—

(A) clearly define the United States financial contribution to construction and operating costs;

(B) ensure that the share of ITER's high-technology components manufactured in the United States is at least proportionate to the United States financial contribution to ITER;

(C) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(D) guarantee the United States full access to all data generated by ITER;

(E) enable United States researchers to propose and carry out an equitable share of the experiments at ITER;

(F) provide the United States with a role in all collective decisionmaking related to ITER; and

(G) describe the process for discontinuing or decommissioning ITER and any United States role in those processes.

(c) PLAN.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in ITER that shall include the United States research agenda for ITER, methods to evaluate whether ITER is promoting progress toward making fusion a reliable and affordable source of power, and a description of how work at ITER will relate to other elements of the United States fusion program. The Secretary shall request a review of the plan by the National Academy of Sciences.

(d) LIMITATION.—No funds shall be expended for the construction of ITER until the Secretary has transmitted to Congress—

(1) the agreement negotiated pursuant to subsection (b) and 120 days have elapsed since that transmission;

(2) a report describing the management structure of ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of ITER, and 120 days have elapsed since that transmission;

(3) a report describing how United States participation in ITER will be funded without reducing funding for other programs in the Office of Science, including other fusion programs, and 60 days have elapsed since that transmission; and

(4) the plan required by subsection (c) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that transmission.

(e) ALTERNATIVE TO ITER.—If at any time during the negotiations on ITER, the Secretary determines that construction and operation of ITER is unlikely or infeasible, the Secretary shall send to Congress, as part of the budget request for the following year, a plan for implementing the domestic burning

plasma experiment known as FIRE, including costs and schedules for such a plan. The Secretary shall refine such plan in full consultation with the Fusion Energy Sciences Advisory Committee and shall also transmit such plan to the National Academy of Sciences for review.

(f) DEFINITIONS.—In this section and sections 951(b)(1) and (c):

(1) CONSTRUCTION.—The term ''construction'' means the physical construction of the ITER facility, and the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility, but does not mean the design of the facility, equipment, or components.

(2) FIRE.—The term ''FIRE'' means the Fusion Ignition Research Experiment, the fusion research experiment for which design work has been supported by the Department as a possible alternative burning plasma experiment in the event that ITER fails to move forward.

(3) ITER.—The term ''ITER'' means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003.

SEC. 953. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial application to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other nations in providing fusion energy for its own needs and the needs of other nations, including by demonstrating electric power or hydrogen production for the United States energy grid utilizing fusion energy at the earliest date possible.

(b) PLANNING.—

(1) IN GENERAL.—Not later than 180 days after 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 policy described in subsection (a). 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) COSTS AND SCHEDULES.—Such plan shall also address the status of and, to the degree possible, costs and schedules for—

(A) in coordination with the program under section 960, 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. 954. SPALLATION NEUTRON SOURCE.

(a) DEFINITION.—For the purposes of this section, the term ''Spallation Neutron Source'' means Department Project 99–E–334, 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) LIMITATIONS.—The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source shall 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. 955. 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) IN GENERAL.—The Secretary shall prepare and transmit, along with the President's budget request to Congress for fiscal year 2006, a report containing the strategy developed under subsection (a).

(2) CONTENTS.—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 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the 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. 956. CATALYSIS RESEARCH AND DEVELOPMENT 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 subnanometer 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 the program under this section, 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 3 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. 957. NANOSCALE SCIENCE AND ENGINEERING RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.

(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 that 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;

(4) coordinate research and development activities with other Department programs, industry, and other Federal agencies;

(5) ensure that societal and ethical concerns will be addressed as the technology is developed by—

(A) establishing a research program to identify societal and ethical concerns related to nanotechnology, and ensuring that the results of such research are widely disseminated; and

(B) integrating, insofar as possible, research on societal and ethical concerns with nanotechnology research and development; and

(6) ensure that the potential of nanotechnology to produce or facilitate the production of clean, inexpensive energy is realized by supporting nanotechnology energy applications research and development.

(c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—

(1) IN GENERAL.—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) ACTIVITIES.—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.—Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities, and related instrumentation.

(4) COLLABORATIONS.—The Secretary shall encourage collaborations among Department programs, institutions of higher education, laboratories, and industry at facilities under this subsection.

SEC. 958. 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 Department 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) develop and 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 Advanced Simulation and Computing Program, formerly known as 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.

(e) REPORT.—

(1) IN GENERAL.—Before undertaking any new initiative to develop any new advanced architecture for high-speed computing, the Secretary, through the Director of the Office of Science, shall transmit a report to Congress describing—

(A) the expected duration and cost of the initiative;

(B) the technical milestones the initiative is designed to achieve;

(C) how institutions of higher education and private firms will participate in the initiative; and

(D) why the goals of the initiative could not be achieved through existing programs.

(2) LIMITATION.—No funds may be expended on any initiative described in paragraph (1) until 30 days after the report required by that paragraph is transmitted to Congress.

SEC. 959. GENOMES TO LIFE PROGRAM.

(a) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a research, development, and demonstration program in genetics, protein science, and computational biology to support the energy, national security, and environmental mission of the Department.

(2) GRANTS.—The program shall support individual investigators and multidisciplinary teams of investigators through competitive, merit-reviewed grants.

(3) CONSULTATION.—In carrying out the program, the Secretary shall consult with other Federal agencies that conduct genetic and protein research.

(b) GOALS.—The program shall have the goal of developing technologies and methods based on the biological functions of genomes, microbes, and plants that—

(1) can facilitate the production of fuels, including hydrogen;

(2) convert carbon dioxide to organic carbon;

(3) improve national security and combat terrorism;

(4) detoxify soils and water at Department facilities contaminated with heavy metals and radiological materials; and

(5) address other Department missions as identified by the Secretary.

(c) PLAN.—

(1) DEVELOPMENT OF PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and transmit to Congress a research plan describing how the program authorized pursuant to this section will be undertaken to accomplish the program goals established in subsection (b).

(2) REVIEW OF PLAN.—The Secretary shall contract with the National Academy of Sciences to review the research plan developed under this subsection. The Secretary shall transmit the review to Congress not later than 18 months after transmittal of the research plan under paragraph (1), along with the Secretary's response to the recommendations contained in the review.

(d) GENOMES TO LIFE USER FACILITIES AND ANCILLARY EQUIPMENT.—

(1) IN GENERAL.—Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 951(b)(6) 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) FACILITIES.—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.

(3) COLLABORATIONS.—The Secretary shall encourage collaborations among universities, laboratories, and industry at facilities under this subsection. All facilities under this subsection shall have a specific mission of technology transfer to other institutions.

(e) PROHIBITION ON BIOMEDICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.—

(1) NO BIOMEDICAL RESEARCH.—In carrying out the program under this section, the Secretary shall not conduct biomedical research.

(2) LIMITATIONS.—Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—

(A) on human cells or human subjects; or

(B) designed to have direct application with respect to human cells or human subjects.

SEC. 960. 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. 961. ENERGY-WATER SUPPLY PROGRAM.

(a) ESTABLISHMENT.—There is established within the Department the Energy-Water Supply Program, to study energy-related and certain other issues associated with the supply of drinking water and operation of community water systems and to study water supply issues related to energy.

(b) DEFINITIONS.—For the purposes of this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AGENCY.—The term ''Agency'' means the Environmental Protection Agency.

(3) FOUNDATION.—The term ''Foundation'' means the American Water Works Association Research Foundation.

(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) PROGRAM.—The term ''Program'' means the Energy-Water Supply Program established by this section.

(c) PROGRAM AREAS.—The Program shall develop methods, means, procedures, equipment, and improved technologies relating to—

(1) the arsenic removal program under subsection (d);

(2) the desalination program under subsection (e); and

(3) the water and energy sustainability program under subsection (f).

(d) ARSENIC REMOVAL PROGRAM.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary, in coordination with the Administrator and in partnership with the Foundation, shall utilize the facilities, institutions, and relationships established in the Consolidated Appropriations Resolution, 2003 as described in Senate Report 107–220 to carry out

a research program to provide innovative methods and means for removal of arsenic.

(2) REQUIRED EVALUATIONS.—The program shall, to the maximum extent practicable, evaluate the means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials, operating, and maintenance costs; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) PEER REVIEW.—Where applicable and reasonably available, projects undertaken under this subsection shall be peer-reviewed.

(4) COMMUNITY WATER SYSTEMS.—In carrying out the program under this subsection, the Secretary, in coordination with the Administrator, shall—

(A) select projects involving a geographically and hydrologically diverse group of community water systems (as defined in section 1003 of the Public Health Service Act (42 U.S.C. 300)) and water chemistries, that have experienced technical or economic difficulties in providing drinking water with levels of arsenic at 10 parts-per-billion or lower, which projects shall be designed to develop innovative methods and means to deliver drinking water that contains less than 10 parts per billion of arsenic; and

(B) provide not less than 40 percent of all funds spent pursuant to this subsection to address the needs of, and in collaboration with, rural communities or Indian tribes.

(5) COST EFFECTIVENESS.—The Foundation shall create methods for determining cost effectiveness of arsenic removal technologies used in the program.

(6) EDUCATION, TRAINING, AND TECHNOLOGY.—The Foundation shall include education, training, and technology transfer as part of the program.

(7) COORDINATION.—The Secretary shall consult with the Administrator to ensure that all activities conducted under the program are coordinated with the Agency and do not duplicate other programs in the Agency and other Federal agencies, State programs, and academia.

(8) REPORTS.—Not later than 1 year after the date of commencement of the program under this subsection, and once every year thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate a report on the results of the program under this subsection.

(e) DESALINATION PROGRAM.—

(1) IN GENERAL.—The Secretary, in cooperation with the Commissioner of Reclamation of the Department of the Interior, shall carry out a program to conduct research and develop methods and means for desalination in accordance with the desalination technology progress plan developed under 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) REQUIREMENTS.—The desalination program shall—

(A) use the resources of the Department and the Department of the Interior that were involved in the development of the 2003 National Desalination and Water Purification Technology Roadmap for next-generation desalination technology;

(B) focus on technologies that are appropriate for use in desalinating brackish groundwater, drinking water, wastewater and other saline water supplies, or disposal of residual brine or salt; and

(C) consider the use of renewable energy sources.

(3) CONSTRUCTION PROJECTS.—Funds made available to carry out this subsection may be used for construction projects, including completion of the National Desalination Research Center for brackish groundwater and ongoing operational costs of this facility.

(4) STEERING COMMITTEE.—The Secretary and the Commissioner of Reclamation of the Department of the Interior shall jointly establish a steering committee for activities conducted under this subsection. The steering committee shall be jointly chaired by 1 representative from the program and 1 representative from the Bureau of Reclamation.

(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

(1) IN GENERAL.—The Secretary shall develop a program to identify methods, means, procedures, equipment, and improved technologies necessary to ensure that sufficient quantities of water are available to meet energy needs and sufficient energy is available to meet water needs.

(2) ASSESSMENTS.—In order to acquire information and avoid duplication, the Secretary shall work in collaboration with the Secretary of the Interior, the Army Corps of Engineers, the Administrator, the Secretary of Commerce, the Secretary of Defense, relevant State agencies, nongovernmental organizations, and academia, to assess—

(A) future water resources needed to support energy development and production within the United States including water used for hydropower, and production of, or electricity generation by, hydrogen, biomass, fossil fuels, and nuclear fuel;

(B) future energy resources needed to support water purification and wastewater treatment, including desalination and water conveyance;

(C) use of impaired and nontraditional water supplies for energy production other than oil and gas extraction;

(D) technology and programs for improving water use efficiency; and

(E) technologies to reduce water use in energy development and production.

(3) ROADMAP; TOOLS.—The Secretary shall—

(A) develop a program plan and technology development roadmap for the Water and Energy Sustainability Program to identify scientific and technical requirements and activities that are required to support planning for energy sustainability under current and potential future conditions of water availability, use of impaired water for energy production and other uses, and reduction of water use in energy development and production;

(B) develop tools for national and local energy and water sustainability planning, including numerical models, decision analysis tools, economic analysis tools, databases, and planning methodologies and strategies;

(C) implement at least 3 planning projects involving energy development or production that use the tools described in subparagraph (B) and assess the viability of those tools at the scale of river basins with at least 1 demonstration involving an international border; and

(D) transfer those tools to other Federal agencies, State agencies, nonprofit organizations, industry, and academia.

(4) REPORT.—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—

(A) includes the results of the assessment under paragraph (2) and the program plan and technology development roadmap; and

(B) identifies policy, legal, and institutional issues related to water and energy sustainability.

SEC. 962. NITROGEN FIXATION.

The Secretary, acting through the Office of Science, shall support a program of research, development, demonstration, and commercial application on biological nitrogen fixation, including plant genomics research relevant to the development of commercial crop varieties with enhanced nitrogen fixation efficiency and ability.

Subtitle G—Energy and Environment

SEC. 964. 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 that 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. 965. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with Western Hemisphere countries.

(b) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with Western Hemisphere countries to—

(1) assist the countries in formulating and adopting changes in economic policies and other policies to—

(A) increase the production of energy supplies; and

(B) improve energy efficiency; and

(2) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) UNIVERSITY PARTICIPATION.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of universities so as to take advantage of the acceptance of universities by Western Hemisphere countries as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of universities that involve the participation of minority students, such as Hispanic-serving institutions and Historically Black Colleges and Universities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $8,000,000 for fiscal year 2004;

(2) $10,000,000 for fiscal year 2005;

(3) $13,000,000 for fiscal year 2006;

(4) $16,000,000 for fiscal year 2007; and

(5) $19,000,000 for fiscal year 2008.

SEC. 966. WASTE REDUCTION AND USE OF ALTERNATIVES.

(a) GRANT AUTHORITY.—The Secretary may make a single grant to a qualified institution to examine and develop the feasibility of burning post-consumer carpet in cement kilns as an alternative energy source. The purposes of the grant shall include determining—

(1) how post-consumer carpet can be burned without disrupting kiln operations;

(2) the extent to which overall kiln emissions may be reduced;

(3) the emissions of air pollutants and other relevant environmental impacts; and

(4) how this process provides benefits to both cement kiln operations and carpet suppliers.

(b) QUALIFIED INSTITUTION.—For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher education with demonstrated expertise in the fields of fiber recycling and logistical modeling of carpet waste collection and preparation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $500,000.

SEC. 967. REPORT ON FUEL CELL TEST CENTER.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of a study of the establishment of a test center for next-generation fuel cells at an institution of higher education that has available a continuous source of hydrogen and access to the electric transmission grid. Such report shall include a conceptual design for such test center and a projection of the costs of establishing the test center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $500,000.

SEC. 968. ARCTIC ENGINEERING RESEARCH CENTER.

(a) IN GENERAL.—The Secretary of Energy (referred to in this section as the ''Secretary'') in consultation with the Secretary of Transportation and the United States Arctic Research Commission shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Fairbanks and to be known as the ''Arctic Engineering Research Center'' (referred to in this section as the ''Center'').

(b) PURPOSE.—The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as possible;

(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) OBJECTIVES.—The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region; and

(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) AMOUNT OF GRANT.—For each of fiscal years 2004 through 2009, the Secretary shall provide a grant in the amount of $3,000,000 to the institution specified in subsection (a) to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2004 through 2009.

SEC. 969. BARROW GEOPHYSICAL RESEARCH FACILITY.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the ''Barrow Geophysical Research Facility'', to support scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency for the planning, design, construction, and support of the Barrow Geophysical Research Facility $61,000,000.

SEC. 970. WESTERN MICHIGAN DEMONSTRATION PROJECT.

The Administrator of the Environmental Protection Agency, in consultation with the State of Michigan and affected local officials, shall conduct a demonstration project to address the effect of transported ozone and ozone precursors in Southwestern Michigan. The demonstration program shall address projected nonattainment areas in Southwestern Michigan that include counties with design values for ozone of less than .095 based on years 2000 to 2002 or the most current 3-year period of air quality data. The Administrator shall assess any difficulties such areas may experience in meeting the 8 hour national ambient air quality standard for ozone due to the effect of transported ozone or ozone precursors into the areas. The Administrator shall work with State and local officials to determine the extent of ozone and ozone precursor transport, to assess alternatives to achieve compliance with the 8 hour standard apart from local controls, and to determine the timeframe in which such compliance could take place. The Administrator shall complete this demonstration project no later than 2 years after the date of enactment of this section and shall not impose any requirement or sanction that might otherwise apply during the pendency of the demonstration project.

Subtitle H—Management

SEC. 971. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this title shall remain available until expended.

SEC. 972. 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. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature or involves technical analyses or educational activities.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this title, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this title 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.

(d) SIZE OF NON-FEDERAL SHARE.—The Secretary may consider the size of the non-Federal share in selecting projects.

SEC. 973. 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. 974. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) IN GENERAL.—The Secretary shall establish 1 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) EXISTING ADVISORY BOARDS.—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) OFFICE OF SCIENCE ADVISORY COMMITTEES.—

(1) UTILIZATION OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.

(2) SCIENCE ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There shall be in the Office of Science a Science Advisory Committee that includes the chairs of each of the advisory committees described in paragraph (1).

(B) RESPONSIBILITIES.—The Science Advisory Committee shall—

(i) serve as the science advisor to the Director of the Office of Science;

(ii) advise the Director with respect to the well-being and management of the National Laboratories and single-purpose research facilities;

(iii) advise the Director with respect to education and workforce training activities required for effective short-term and long-term basic and applied research activities of the Office of Science; and

(iv) advise the Director with respect to the well being of the university research programs supported by the Office of Science.

(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 semiannually 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 901(b), 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 901(b), 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 Congress reports containing the results of all such reviews and assessments.

SEC. 975. 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—

(1) coordinate the activities of the Technology Transfer Working Group;

(2) oversee the expenditure of funds allocated to the Technology Transfer Working Group; and

(3) 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 (15 U.S.C. 3701 et seq.).

SEC. 976. FEDERAL LABORATORY EDUCATIONAL PARTNERS.

(a) DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.—Section 14(a)(1)(B)(v) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)(v)), is amended to read as follows:

''(v) for scientific research and development and for educational assistance and other purposes consistent with the missions and objectives of the agency and the laboratory.''.

(b) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—Section 12(b)(5)(C) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)(5)(C)) is amended to read as follows:

''(C) for scientific research and development and for educational assistance consistent with the missions and objectives of the agency and the laboratory.''.

SEC. 977. INTERAGENCY COOPERATION.

The Secretary shall enter into discussions with the Administrator of the National Aeronautics and Space Administration with the goal of reaching an interagency working agreement between the 2 agencies that would make the National Aeronautics and Space Administration's expertise in energy, gained from its existing and planned programs, more readily available to the relevant research, development, demonstration, and commercial applications programs of the Department. Technologies to be discussed should include the National Aeronautics and Space Administration's modeling, research, development, testing, and evaluation of new energy technologies, including solar, wind, fuel cells, and hydrogen storage and distribution.

SEC. 978. 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 1 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 31.205–18(e) of the Federal Acquisition Regulation 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 toward 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) IN GENERAL.—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) CRITERIA.—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.

(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) TECHNOLOGY CLUSTER.—The term ''technology cluster'' means a concentration of technology-related business concerns, institutions of higher education, or nonprofit institutions that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(2) TECHNOLOGY-RELATED BUSINESS CONCERN.—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. 979. 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 Congress a report explaining how such amounts will be distributed among the authorizations contained in this title.

(b) PROHIBITION.—

(1) IN GENERAL.—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 Congress a report described in subsection (c) and a period of 30 days has elapsed after such committees receive the report.

(2) COMPUTATION.—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. 980. 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. 2011 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. 981. 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.

SEC. 982. DEPARTMENT OF ENERGY SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to establish a Department of Energy Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Department.

(2) COMPETITIVE PROCESS.—Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) SERVICE AGREEMENTS.—To carry out the Program the Secretary shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Department, for the period described in subsection (f)(1), in positions needed by the Department and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) SCHOLARSHIP ELIGIBILITY.—In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education in an academic program or field of study described in the list made available under subsection (d);

(2) be a United States citizen; and

(3) at the time of the initial scholarship award, not be a Federal employee as defined in section 2105 of title 5 of the United States Code.

(c) APPLICATION REQUIRED.—An individual seeking a scholarship under this section shall submit an application to the Secretary at such time, in such manner, and containing such information, agreements, or assurances as the Secretary may require.

(d) ELIGIBLE ACADEMIC PROGRAMS.—The Secretary shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized, and shall update the list as necessary.

(e) SCHOLARSHIP REQUIREMENT.—

(1) IN GENERAL.—The Secretary may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Secretary, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) DURATION OF ELIGIBILITY.—An individual may not receive a scholarship under this section for more than 4 academic years, unless the Secretary grants a waiver.

(3) SCHOLARSHIP AMOUNT.—The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Secretary, but shall in no case exceed the cost of attendance.

(4) AUTHORIZED USES.—A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Secretary by regulation.

(5) CONTRACTS REGARDING DIRECT PAYMENTS TO INSTITUTIONS.—The Secretary may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f) PERIOD OF OBLIGATED SERVICE.—

(1) DURATION OF SERVICE.—The period of service for which an individual shall be obligated to serve as an employee of the Department is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2) SCHEDULE FOR SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) DEFERRAL.—The Secretary may defer the obligation of an individual to provide a period of service under paragraph (1) if the Secretary determines that such a deferral is appropriate. The Secretary shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g) PENALTIES FOR BREACH OF SCHOLARSHIP AGREEMENT.—

(1) FAILURE TO COMPLETE ACADEMIC TRAINING.—Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Secretary by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment not later than 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Secretary when determined to be necessary, as established by regulation.

(2) FAILURE TO BEGIN OR COMPLETE THE SERVICE OBLIGATION OR MEET THE TERMS AND CONDITIONS OF DEFERMENT.—A scholarship recipient who, for any reason, fails to begin or complete a service obligation under this section after completion of academic training, or fails to comply with the terms and conditions of deferment established by the Secretary pursuant to subsection (f)(2)(B), shall be in breach of the contractual agreement. When a recipient breaches an agreement for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

(h) WAIVER OR SUSPENSION OF OBLIGATION.—

(1) DEATH OF INDIVIDUAL.—Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) IMPOSSIBILITY OR EXTREME HARDSHIP.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) DEFINITIONS.—In this section the following definitions apply:

(1) COST OF ATTENDANCE.—The term ''cost of attendance'' has the meaning given that term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*).

(2) PROGRAM.—The term ''Program'' means the Department of Energy Science and Technology Scholarship Program established under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section—

(1) for fiscal year 2004, $800,000;

(2) for fiscal year 2005, $1,600,000;

(3) for fiscal year 2006, $2,000,000;

(4) for fiscal year 2007, $2,000,000; and

(5) for fiscal year 2008, $2,000,000.

SEC. 983. REPORT ON EQUAL EMPLOYMENT OPPORTUNITY PRACTICES.

Not later than 12 months after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at National Laboratories. Such report shall include—

(1) a thorough review of each laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;

(2) a statistical report on complaints and their disposition in the laboratories;

(3) a description of how equal employment opportunity practices at the laboratories are treated in the contract and in calculating award fees for each contractor;

(4) a summary of disciplinary actions and their disposition by either the Department or the relevant contractors for each laboratory;

(5) a summary of outreach efforts to attract women and minorities to the laboratories;

(6) a summary of efforts to retain women and minorities in the laboratories; and

(7) a summary of collaboration efforts with the Office of Federal Contract Compliance Programs to improve equal employment opportunity practices at the laboratories.

SEC. 984. 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, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities 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 concerns' 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) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS.—The term ''socially and economically disadvantaged small business concerns'' has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section $5,000,000 for each of fiscal years 2004 through 2008.

SEC. 985. REPORT ON MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit a report to 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 interlaboratory exchange of scientific and technical personnel.

SEC. 986. 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 commercial application of 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) transmit a report to Congress on recommendations developed as a result of the study.

SEC. 987. 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, small businesses, facility planners and managers, State and local governments, and other entities.

SEC. 988. 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 Congress a report notifying 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. 989. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) ACTIVITIES.—Section 3165(a) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381b(a)) is amended by adding at the end the following:

''(14) Support competitive events for students, under supervision of teachers, designed to encourage student interest and knowledge in science and mathematics.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3169 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381e), as so redesignated by section 1102(b), is amended by inserting before the period ''; and $40,000,000 for each of fiscal years 2004 through 2008''.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

SEC. 1001. ADDITIONAL ASSISTANT SECRETARY POSITION.

(a) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

(1) IN GENERAL.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking ''six Assistant Secretaries'' and inserting ''7 Assistant Secretaries''.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (7)''.

(2) DEPARTMENT OF ENERGY ORGANIZATION ACT.—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. 1002. 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) or section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

''(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 makes a written determination that 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 under paragraph (1) to the party submitting the information; 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 subsection, the Secretary shall prescribe guidelines for using other transactions authorized by paragraph (1). 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.

''(6)(A) Not later than September 31, 2005, the Comptroller General of the United States shall report to Congress on the Department's use of the authorities granted under this section, including the ability to attract nontraditional government contractors and whether additional safeguards are needed with respect to the use of such authorities.

''(B) In this section, the term 'nontraditional Government contractor' has the same meaning as the term 'nontraditional defense contractor' as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).''.

TITLE XI—PERSONNEL AND TRAINING

SEC. 1101. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

The Secretary of Energy, in consultation with the Secretary of Labor 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. 1102. 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 UNDERREPRESENTED GROUPS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from underrepresented 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 902 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 902 of the Energy Policy Act of 2003.

''(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'Tribal College or University' in section 316(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(3)).

''(b) EDUCATION PARTNERSHIP.—The Secretary shall direct the Director of each National Laboratory and, to the extent practicable, 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 the Energy Policy Act of 2003, the Secretary shall submit to Congress a report on the activities carried out under this section.''.

SEC. 1103. 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 nonnuclear electric power generation plants.

(b) ROLE.—The Center shall provide both training and continuing education relating to nonnuclear 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 onsite as well as Internet-based training.

SEC. 1104. INTERNATIONAL ENERGY TRAINING.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretaries of Commerce, Interior, and State and the Federal Energy Regulatory Commission, shall coordinate training and outreach efforts for international commercial energy markets in countries with developing and restructuring economies.

(b) COMPONENTS.—The efforts may address—

(1) production-related fiscal regimes;

(2) grid and network issues;

(3) energy user and demand side response;

(4) international trade of energy; and

(5) international transportation of energy.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2004 through 2007.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Electric Reliability Act of 2004''.

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY.

''(a) DEFINITIONS.—For purposes of this section:

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) 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 facilities and the design of planned additions or modifications to such facilities 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 facilities or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the elements 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 elements.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 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 facilities within their control.

''(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

''(2) 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) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (e)(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 bulk-power 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) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization 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 Electric Reliability Organization 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 Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a 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)(2) 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) ENFORCEMENT.—(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 issue 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—

''(i) an independent board;

''(ii) a balanced stakeholder board; or

''(iii) a combination independent and balanced stakeholder board.

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis 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) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. 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) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) COORDINATION WITH CANADA AND MEXICO.—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) SAVINGS PROVISIONS.—(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 Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

''(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 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 Electric Reliability Organization, 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) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.''.

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) AMENDMENT OF FEDERAL POWER ACT.—Part II of the Federal Power Act is amended by adding at the end the following:

''SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

''(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDORS.—

''(1) TRANSMISSION CONGESTION STUDY.—Within 1 year after the enactment of this section, and every 3 years thereafter, the Secretary of Energy, in consultation with affected States, shall conduct a study of electric transmission congestion. After considering alternatives and recommendations from interested parties, including an opportunity for comment from affected States, the Secretary shall issue a report, based on such study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor. The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referenced in section 215 of this Act.

''(2) CONSIDERATIONS.—In determining whether to designate a national interest electric transmission corridor referred to in paragraph (1) under this section, the Secretary may consider whether—

''(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

''(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

''(ii) a diversification of supply is warranted;

''(C) the energy independence of the United States would be served by the designation;

''(D) the designation would be in the interest of national energy policy; and

''(E) the designation would enhance national defense and homeland security.

''(b) CONSTRUCTION PERMIT.—Except as provided in subsection (i), the Commission is authorized, after notice and an opportunity for hearing, to issue a permit or permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

''(1)(A) a State in which the transmission facilities are to be constructed or modified is without authority to—

''(i) approve the siting of the facilities; or

''(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

''(B) the applicant for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

''(C) a State commission or other entity that has authority to approve the siting of the facilities has—

''(i) withheld approval for more than 1 year after the filing of an application pursuant to applicable law seeking approval or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

''(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

''(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

''(3) the proposed construction or modification is consistent with the public interest;

''(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers; and

''(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence.

''(c) PERMIT APPLICATIONS.—Permit applications under subsection (b) shall be made in writing to the Commission. The Commission shall issue rules setting forth the form of the application, the information to be contained in the application, and the manner of service of notice of the permit application upon interested persons.

''(d) COMMENTS.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

''(e) RIGHTS-OF-WAY.—In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify such transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated.

''(f) STATE LAW.—Nothing in this section shall preclude any person from constructing or modifying any transmission facility pursuant to State law.

''(g) COMPENSATION.—Any exercise of eminent domain authority pursuant to this section shall be considered a taking of private property for which just compensation is due. Just compensation shall be an amount equal to the full fair market value of the property taken on the date of the exercise of eminent domain authority, except that the compensation shall exceed fair market value if necessary to make the landowner whole for decreases in the value of any portion of the land not subject to eminent domain. Any parcel of land acquired by eminent domain under this subsection shall be transferred back to the owner from whom it was acquired (or his heirs or assigns) if the land is not used for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition. Other than construction, modification, operation, or maintenance of electric transmission facilities and related facilities, property acquired under subsection (e) may not be used for any purpose (including use for any heritage area, recreational trail, or park) without the consent of the owner of the parcel from whom the property was acquired (or the owner's heirs or assigns).

''(h) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION AND DISTRIBUTION FACILITIES.—

''(1) LEAD AGENCY.—If an applicant, or prospective applicant, for a Federal authorization related to an electric transmission or distribution facility so requests, the Department of Energy (DOE) shall act as the lead

agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility. For purposes of this subsection, the term 'Federal authorization' means any authorization required under Federal law in order to site a transmission or distribution facility, including but not limited to such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal or a State agency. To the maximum extent practicable under applicable Federal law, the Secretary of Energy shall coordinate this Federal authorization and review process with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

''(2) AUTHORITY TO SET DEADLINES.—As lead agency, the Department of Energy, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multi-State entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility. The Secretary of Energy shall ensure that once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 1 year or, if a requirement of another provision of Federal law makes this impossible, as soon thereafter as is practicable. The Secretary of Energy also shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant within 60 days of when the prospective applicant submits a request for such information concerning—

''(A) the likelihood of approval for a potential facility; and

''(B) key issues of concern to the agencies and public.

''(3) CONSOLIDATED ENVIRONMENTAL REVIEW AND RECORD OF DECISION.—As lead agency head, the Secretary of Energy, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law. The document may be an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 if warranted, or such other form of analysis as may be warranted. The Secretary of Energy and the heads of other agencies shall streamline the review and permitting of transmission and distribution facilities within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors. Such document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable laws.

''(4) APPEALS.—In the event that any agency has denied a Federal authorization required for a transmission or distribution facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the Secretary, who shall, in consultation with the affected agency, review the denial or take action on the pending application. Based on the overall record and in consultation with the affected agency, the Secretary may then either issue the necessary authorization with any appropriate conditions, or deny the application. The Secretary shall issue a decision within 90 days of the filing of the appeal. In making a decision under this paragraph, the Secretary shall comply with applicable requirements of Federal law, including any requirements of the Endangered Species Act, the Clean Water Act, the National Forest Management Act, the National Environmental Policy Act of 1969, and the Federal Land Policy and Management Act.

''(5) CONFORMING REGULATIONS AND MEMORANDA OF UNDERSTANDING.—Not later than 18 months after the date of enactment of this section, the Secretary of Energy shall issue any regulations necessary to implement this subsection. Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into Memoranda of Understanding to ensure the timely and coordinated review and permitting of electricity transmission and distribution facilities. The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the DOE regulations and any Memoranda. Interested Indian tribes, multi-State entities, and State agencies may enter such Memoranda of Understanding.

''(6) DURATION AND RENEWAL.—Each Federal land use authorization for an electricity transmission or distribution facility shall be issued—

''(A) for a duration, as determined by the Secretary of Energy, commensurate with the anticipated use of the facility, and

''(B) with appropriate authority to manage the right-of-way for reliability and environmental protection.

Upon the expiration of any such authorization (including an authorization issued prior to enactment of this section), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing its importance for public health, safety and economic welfare and as a legitimate use of Federal lands.

''(7) MAINTAINING AND ENHANCING THE TRANSMISSION INFRASTRUCTURE.—In exercising the responsibilities under this section, the Secretary of Energy shall consult regularly with the Federal Energy Regulatory Commission (FERC), FERC-approved electric reliability organizations (including related regional entities), and FERC-approved Regional Transmission Organizations and Independent System Operators.

''(i) INTERSTATE COMPACTS.—The consent of Congress is hereby given for 3 or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to facilitate siting of future electric energy transmission facilities within such States and to carry out the electric energy transmission siting responsibilities of such States. The Secretary of Energy may provide technical assistance to regional transmission siting agencies established under this subsection. Such regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States). The Commission shall have no authority to issue a permit for the construction or modification of electric transmission facilities within a State that is a party to a compact, unless the members of a compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in section (b)(1)(C).

''(j) SAVINGS CLAUSE.—Nothing in this section shall be construed to affect any requirement of the environmental laws of the United States, including, but not limited to, the National Environmental Policy Act of 1969. Subsection (h)(4) of this section shall not apply to any Congressionally-designated components of the National Wilderness Preservation System, the National Wild and Scenic Rivers System, or the National Park system (including National Monuments therein).

''(k) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).''.

(b) REPORTS TO CONGRESS ON CORRIDORS AND RIGHTS OF WAY ON FEDERAL LANDS.—The Secretary of the Interior, the Secretary of Energy, the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall, within 90 days of the date of enactment of this subsection, submit a joint report to Congress identifying each of the following:

(1) All existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations under Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761 et. Seq.), the schedule for completing such work, any impediments to completing the work, and steps that Congress could take to expedite the process.

(2) The number of pending applications to locate transmission and distribution facilities on Federal lands, key information relating to each such facility, how long each application has been pending, the schedule for issuing a timely decision as to each facility, and progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or their equivalent.

(3) The number of existing transmission and distribution rights-of-way on Federal lands that will come up for renewal within the following 5, 10, and 15 year periods, and a description of how the Secretaries plan to manage such renewals.

SEC. 1222. THIRD-PARTY FINANCE.

(a) EXISTING FACILITIES.—The Secretary of Energy (hereinafter in this section referred to as the ''Secretary''), acting through the Administrator of the Western Area Power Administration (hereinafter in this section referred to as ''WAPA''), or through the Administrator of the Southwestern Power Administration (hereinafter in this section referred to as ''SWPA''), or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, an electric power transmission facility and related facilities (''Project'') needed to upgrade existing transmission facilities owned by SWPA or WAPA if the Secretary of Energy, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by

the appropriate Regional Transmission Organization or Independent System Operator (as defined in the Federal Power Act), if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid; and

(3) would be operated in conformance with prudent utility practice.

(b) NEW FACILITIES.—The Secretary, acting through WAPA or SWPA, or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, a new electric power transmission facility and related facilities (''Project'') located within any State in which WAPA or SWPA operates if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in an area designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Regional Transmission Organization or Independent System Operator, if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate (A) Regional Transmission Organization or Independent System Operator, if any, or (B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities which are the subject of ongoing or approved siting and related permitting proceedings.

(c) OTHER FUNDS.—

(1) IN GENERAL.—In carrying out a Project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the Project.

(2) AVAILABILITY.—The contributed funds shall be available for expenditure for the purpose of carrying out the Project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for that Project.

(3) ALLOCATION OF COSTS.—In carrying out a Project under subsection (a) or (b), any costs of the Project not paid for by contributions from another entity shall be collected through rates charged to customers using the new transmission capability provided by the Project and allocated equitably among these project beneficiaries using the new transmission capability.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any existing authorizing statutes.

(e) SAVINGS CLAUSE.—Nothing in this section shall constrain or restrict an Administrator in the utilization of other authority delegated to the Administrator of WAPA or SWPA.

(f) SECRETARIAL DETERMINATIONS.—Any determination made pursuant to subsections (a) or (b) shall be based on findings by the Secretary using the best available data.

(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than $100,000,000 under subsection (c)(1) for the period encompassing fiscal years 2004 through 2013.

SEC. 1223. TRANSMISSION SYSTEM MONITORING.

Within 6 months after the date of enactment of this Act, the Secretary of Energy and the Federal Energy Regulatory Commission shall study and report to Congress on the steps which must be taken to establish a system to make available to all transmission system owners and Regional Transmission Organizations (as defined in the Federal Power Act) within the Eastern and Western Interconnections real-time information on the functional status of all transmission lines within such Interconnections. In such study, the Commission shall assess technical means for implementing such transmission information system and identify the steps the Commission or Congress must take to require the implementation of such system.

SEC. 1224. ADVANCED TRANSMISSION TECHNOLOGIES.

(a) AUTHORITY.—The Federal Energy Regulatory Commission, in the exercise of its authorities under the Federal Power Act and the Public Utility Regulatory Policies Act of 1978, shall encourage the deployment of advanced transmission technologies.

(b) DEFINITION.—For the purposes of this section, the term ''advanced transmission technologies'' means technologies that increase the capacity, efficiency, or reliability of existing or new transmission facilities, including, but not limited to—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;

(8) ultra-high voltage lines;

(9) high-voltage DC technology;

(10) flexible AC transmission systems;

(11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels, and batteries);

(12) controllable load;

(13) distributed generation (including PV, fuel cells, microturbines);

(14) enhanced power device monitoring;

(15) direct system state sensors;

(16) fiber optic technologies;

(17) power electronics and related software (including real time monitoring and analytical software); and

(18) any other technologies the Commission considers appropriate.

(c) OBSOLETE OR IMPRACTICABLE TECHNOLOGIES.—The Commission is authorized to cease encouraging the deployment of any technology described in this section on a finding that such technology has been rendered obsolete or otherwise impracticable to deploy.

SEC. 1225. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAM.—The Secretary of Energy (hereinafter in this section referred to as the ''Secretary'') acting through the Director of the Office of Electric Transmission and Distribution shall establish a comprehensive research, development, demonstration and commercial application program to promote improved reliability and efficiency of electrical transmission and distribution systems. This program shall include—

(1) advanced energy delivery and storage technologies, materials, and systems, including new transmission technologies, such as flexible alternating current transmission systems, 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 may 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 infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, demonstration, and commercial application initiative specifically focused on power delivery utilizing components incorporating high temperature superconductivity.

(2) GOALS.—The goals of this initiative shall be to—

(A) establish 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.

(3) REQUIREMENTS.—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.

(4) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this subsection, 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.

SEC. 1226. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.

(a) PROGRAM.—The Secretary of Energy is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application establishing an applicant as either—

(1) a qualifying advanced power system technology facility; or

(2) a qualifying security and assured power facility.

(b) INCENTIVES.—Subject to availability of funds, a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) ELIGIBILITY.—For purposes of this section:

(1) QUALIFYING ADVANCED POWER SYSTEM TECHNOLOGY FACILITY.—The term ''qualifying advanced power system technology facility'' means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) QUALIFYING SECURITY AND ASSURED POWER FACILITY.—The term ''qualifying security and assured power facility'' means a qualifying advanced power system technology facility determined by the Secretary of Energy, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Energy for the purposes of this section, $10,000,000 for each of the fiscal years 2004 through 2010.

SEC. 1227. 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 (42 U.S.C. 7131 et seq.) (as amended by section 502(a) of this Act) is amended by inserting the following after section 217, as added by title V of this Act:

''SEC. 218. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

''(a) ESTABLISHMENT.—There is established within the Department an Office of Electric Transmission and Distribution. This Office shall be headed by a Director, subject to the authority of the Secretary. The Director 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) DIRECTOR.—The Director shall—

''(1) coordinate and develop a comprehensive, multi-year strategy to improve the Nation's electricity transmission and distribution;

''(2) implement or, where appropriate, coordinate the implementation of, the recommendations made in the Secretary's May 2002 National Transmission Grid Study;

''(3) oversee research, development, and demonstration to support Federal energy policy related to electricity transmission and distribution;

''(4) grant authorizations for electricity import and export pursuant to section 202(c), (d), (e), and (f) of the Federal Power Act (16 U.S.C. 824a);

''(5) perform other functions, assigned by the Secretary, related to electricity transmission and distribution; 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 Organization Act (42 U.S.C. 7101 note) is amended by inserting after the item relating to section 217 the following new item:

''Sec. 218. Office of Electric Transmission and Distribution.''.

(2) Section 5315 of title 5, United States Code, is amended by inserting after the item relating to ''Inspector General, Department of Energy.'' the following:

''Director, Office of Electric Transmission and Distribution, Department of Energy.''.

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

''SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

''(a) TRANSMISSION SERVICES.—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) EXEMPTION.—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) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

''(d) EXEMPTION TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

''(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—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) REMAND.—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) OTHER REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

''(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section 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 independent transmission organization designated to provide nondiscriminatory transmission access.

''(j) DEFINITION.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

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

''(2) is an entity described in section 201(f).''.

SEC. 1232. SENSE OF 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 Regional Transmission Organizations as defined in section 3 of the Federal Power Act.

SEC. 1233. REGIONAL TRANSMISSION ORGANIZATION APPLICATIONS PROGRESS REPORT.

Not later than 120 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall submit to Congress a report containing each of the following:

(1) A list of all regional transmission organization applications filed at the Commission pursuant to subpart F of part 35 of title 18, Code of Federal Regulations (in this section referred to as ''Order No. 2000''), including an identification of each public utility and other entity included within the proposed membership of the regional transmission organization.

(2) A brief description of the status of each pending regional transmission organization application, including a precise explanation of how each fails to comply with the minimal requirements of Order No. 2000 and what steps need to be taken to bring each application into such compliance.

(3) For any application that has not been finally approved by the Commission, a detailed description of every aspect of the application that the Commission has determined does not conform to the requirements of Order No. 2000.

(4) For any application that has not been finally approved by the Commission, an explanation by the Commission of why the items described pursuant to paragraph (3) constitute material noncompliance with the requirements of the Commission's Order No. 2000 sufficient to justify denial of approval by the Commission.

(5) For all regional transmission organization applications filed pursuant to the Commission's Order No. 2000, whether finally approved or not—

(A) a discussion of that regional transmission organization's efforts to minimize rate seams between itself and—

(i) other regional transmission organizations; and

(ii) entities not participating in a regional transmission organization;

(B) a discussion of the impact of such seams on consumers and wholesale competition; and

(C) a discussion of minimizing cost-shifting on consumers.

SEC. 1234. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

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

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term ''appropriate Federal regulatory authority'' means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), 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) FEDERAL UTILITY.—The term ''Federal utility'' means a Federal power marketing agency or the Tennessee Valley Authority.

(3) TRANSMISSION SYSTEM.—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.—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 an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) 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;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory 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) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall 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) OTHER OBLIGATIONS.—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.

(3) REPEAL.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106–377, section 1(a)(2); 114 Stat. 1441, 1441A–80; 16 U.S.C. 824n) is repealed.

SEC. 1235. STANDARD MARKET DESIGN.

(a) REMAND.—The Commission's proposed rulemaking entitled ''Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design'' (Docket No. RM01–12–000) (''SMD NOPR'') is remanded to the Commission for reconsideration. No final rule mandating a standard electricity market design pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before October 31, 2006, or take effect before December 31, 2006. Any final rule issued by the Commission pursuant to the proposed rulemaking shall be preceded by a second notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

(b) SAVINGS CLAUSE.—This section shall not be construed to modify or diminish any authority or obligation the Commission has under this Act, the Federal Power Act, or other applicable law, including, but not limited to, any authority to—

(1) issue any rule or order (of general or particular applicability) pursuant to any such authority or obligation; or

(2) act on a filing or filings by 1 or more transmitting utilities for the voluntary formation of a Regional Transmission Organization or Independent System Operator (as defined in the Federal Power Act) (and related market structures or rules) or voluntary modification of an existing Regional Transmission Organization or Independent System Operator (and related market structures or rules).

SEC. 1236. NATIVE LOAD SERVICE OBLIGATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 217. NATIVE LOAD SERVICE OBLIGATION.

''(a) MEETING SERVICE OBLIGATIONS.—(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 1 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 1 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, equivalent tradable 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 tradable 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 tradable 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) ALLOCATION OF TRANSMISSION RIGHTS.—Nothing in this section shall affect any methodology approved by the Commission prior to September 15, 2003, for the allocation of transmission rights by an RTO or ISO that has been authorized by the Commission to allocate transmission rights.

''(c) CERTAIN TRANSMISSION RIGHTS.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (a) available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

''(d) OBLIGATION TO BUILD.—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.

''(e) CONTRACTS.—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.

''(f) WATER PUMPING FACILITIES.—The Commission shall ensure that any entity described in section 201(f) that owns transmission facilities used predominately to support its own water pumping facilities shall

have, with respect to such facilities, protections for transmission service comparable to those provided to load-serving entities pursuant to this section.

''(g) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

''(h) JURISDICTION.—This section does not authorize the Commission to take any action not otherwise within its jurisdiction.

''(i) EFFECT OF EXERCISING RIGHTS.—An entity that lawfully exercises rights granted under subsection (a) shall not be considered by such action as engaging in undue discrimination or preference under this Act.

''(j) TVA AREA.—For purposes of subsection (a)(1)(B), a load-serving entity that is located within the service area of the Tennessee Valley Authority and that has a firm wholesale power supply contract with the Tennessee Valley Authority shall be deemed to hold firm transmission rights for the transmission of such power.

''(k) DEFINITIONS.—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 1 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 1 or more of the foregoing, or a corporation which is wholly owned, directly or indirectly, by any 1 or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing or distributing power.''.

SEC. 1237. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) STUDY.—The Secretary of Energy, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) DEFINITION.—The term ''economic dispatch'' when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) REPORT TO CONGRESS AND THE STATES.—Not later than 90 days after the date of enactment of this Act, and on a yearly basis following, the Secretary of Energy shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

Subtitle D—Transmission Rate Reform

SEC. 1241. 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:

''SEC. 218. TRANSMISSION INFRASTRUCTURE INVESTMENT.

''(a) RULEMAKING REQUIREMENT.—Within 1 year after the enactment of this section, the Commission shall establish, by rule, incentive-based (including, but not limited to performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. Such rule shall—

''(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance and operation of facilities for the transmission of electric energy in interstate commerce;

''(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

''(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of such facilities; and

''(4) allow recovery of all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215 of this Act.

The Commission may, from time to time, revise such rule.

''(b) ADDITIONAL INCENTIVES FOR RTO PARTICIPATION.—In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Regional Transmission Organization or Independent System Operator. Incentives provided by the Commission pursuant to such rule shall include—

''(1) recovery of all prudently incurred costs to develop and participate in any proposed or approved RTO, ISO, or independent transmission company;

''(2) recovery of all costs previously approved by a State commission which exercised jurisdiction over the transmission facilities prior to the utility's participation in the RTO or ISO, including costs necessary to honor preexisting transmission service contracts, in a manner which does not reduce the revenues the utility receives for transmission services for a reasonable transition period after the utility joins the RTO or ISO;

''(3) recovery as an expense in rates of the costs prudently incurred to conduct transmission planning and reliability activities, including the costs of participating in RTO, ISO and other regional planning activities and design, study and other precertification costs involved in seeking permits and approvals for proposed transmission facilities;

''(4) a current return in rates for construction work in progress for transmission facilities and full recovery of prudently incurred costs for constructing transmission facilities;

''(5) formula transmission rates; and

''(6) a maximum 15 year accelerated depreciation on new transmission facilities for rate treatment purposes.

The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the RTO or ISO that provides transmission service to such utility.

''(c) JUST AND REASONABLE RATES.—All rates approved under the rules adopted pursuant to this section, including any revisions to such rules, are subject to the requirement of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.''.

SEC. 1242. VOLUNTARY TRANSMISSION PRICING PLANS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 219. VOLUNTARY TRANSMISSION PRICING PLANS.

''(a) IN GENERAL.—Any transmission provider, including an RTO or ISO, may submit to the Commission a plan or plans under section 205 containing the criteria for determining the person or persons that will be required to pay for any construction of new transmission facilities or expansion, modification or upgrade of transmission facilities (in this section referred to as 'transmission service related expansion') or new generator interconnection.

''(b) VOLUNTARY TRANSMISSION PRICING PLANS.—(1) Any plan or plans submitted under subsection (a) shall specify the method or methods by which costs may be allocated or assigned. Such methods may include, but are not limited to:

''(A) directly assigned;

''(B) participant funded; or

''(C) rolled into regional or sub-regional rates.

''(2) FERC shall approve a plan or plans submitted under subparagraph (B) of paragraph (1) if such plan or plans—

''(A) result in rates that are just and reasonable and not unduly discriminatory or preferential consistent with section 205; and

''(B) ensure that the costs of any transmission service related expansion or new generator interconnection not required to meet applicable reliability standards established under section 215 are assigned in a fair manner, meaning that those who benefit from the transmission service related expansion or new generator interconnection pay an appropriate share of the associated costs, provided that—

''(i) costs may not be assigned or allocated to an electric utility if the native load customers of that utility would not have required such transmission service related expansion or new generator interconnection absent the request for transmission service related expansion or new generator interconnection that necessitated the investment;

''(ii) the party requesting such transmission service related expansion or new generator interconnection shall not be required to pay for both—

''(I) the assigned cost of the upgrade; and

''(II) the difference between—

''(aa) the embedded cost paid for transmission services (including the cost of the requested upgrade); and

''(bb) the embedded cost that would have been paid absent the upgrade; and

''(iii) the party or parties who pay for facilities necessary for the transmission service related expansion or new generator interconnection receives full compensation for its costs for the participant funded facilities in the form of—

''(I) monetary credit equal to the cost of the participant funded facilities (accounting for the time value of money at the Gross Domestic Product deflator), which credit shall be pro-rated in equal installments over a period of not more than 30 years and shall not exceed in total the amount of the initial investment, against the transmission charges that the funding entity or its assignee is otherwise assessed by the transmission provider;

''(II) appropriate financial or physical rights; or

''(III) any other method of cost recovery or compensation approved by the Commission.

''(3) A plan submitted under this section shall apply only to—

''(A) a contract or interconnection agreement executed or filed with the Commission after the date of enactment of this section; or

''(B) an interconnection agreement pending rehearing as of November 1, 2003.

''(4) Nothing in this section diminishes or alters the rights of individual members of an RTO or ISO under this Act.

''(5) Nothing in this section shall affect the allocation of costs or the cost methodology employed by an RTO or ISO authorized by the Commission to allocate costs (including costs for transmission service related expansion or new generator interconnection) prior to the date of enactment of this section.

''(6) This section shall not apply within the area referred to in section 212(k)(2)(A).

''(7) The term 'transmission provider' means a public utility that owns or operates facilities that provide interconnection or transmission service in interstate commerce.''.

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

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

''(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, 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.

''(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

''(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.''.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

''(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

''(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).''.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).''.

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

''(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.''.

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).''.

SEC. 1252. SMART METERING.

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

''(14) TIME-BASED METERING AND COMMUNICATIONS.—

''(A) Not later than 18 months after the date of enactment of this paragraph, 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, if any, in the utility's 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, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. 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/or 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, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, 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 the 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 18 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 as follows:

(1) By inserting in subsection (b) after the phrase ''the standard for time-of-day rates established by section 111(d)(3)'' the following: ''and the standard for time-based metering and communications established by section 111(d)(14)''.

(2) By inserting in subsection (b) after the phrase ''are likely to exceed the metering'' the following: ''and communications''.

(3) By adding the at the end the following:

''(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation 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 Policies 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 ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.''.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

''(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

''(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

''(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

''(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2003, providing 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) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—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. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

''(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

''(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).''.

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

(1) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

''(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.''.

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

SEC. 1253. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—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 issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

''(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

''(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 issued 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) 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) QUALIFYING SMALL POWER PRODUCTION FACILITY.—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

''(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;''.

(2) QUALIFYING COGENERATION FACILITY.—Section 3(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 F—Repeal of PUHCA

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the ''Public Utility Holding Company Act of 2004''.

SEC. 1262. DEFINITIONS.

For purposes of this subtitle:

(1) AFFILIATE.—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) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) COMPANY.—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) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—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) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or 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 1 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) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates accepted or 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) NATURAL GAS COMPANY.—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) PERSON.—The term ''person'' means an individual or company.

(13) PUBLIC UTILITY.—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) PUBLIC-UTILITY COMPANY.—The term ''public-utility company'' means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—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) SUBSIDIARY COMPANY.—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 1 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) VOTING SECURITY.—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. 1263. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 1264. 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 shall 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. 1265. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall 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) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of 1 or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

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

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

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

SEC. 1266. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall issue a final rule to exempt from the requirements of section 1264 (relating to Federal access to books and records) any person that is a holding company, solely with respect to 1 or more—

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

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 1264 (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) 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 or natural gas company; or

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

SEC. 1267. AFFILIATE TRANSACTIONS.

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

(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission 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 from an associate company.

SEC. 1268. APPLICABILITY.

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

(1) the United States;

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

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

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

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

SEC. 1269. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1270. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1271. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or 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 (other than an expiration date or termination date) 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.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

SEC. 1272. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this subtitle, the Commission shall—

(1) issue such regulations as may be necessary or appropriate to implement this subtitle (other than section 1265, relating to State access to books and records); 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. 1273. TRANSFER OF RESOURCES.

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

SEC. 1274. EFFECTIVE DATE.

(a) IN GENERAL.—Except for section 1272 (relating to implementation), this subtitle shall take effect 12 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking modifying the standards of conduct governing entities that own, operate, or control facilities for transmission of electricity in interstate commerce or transportation of natural gas in interstate commerce prior to the effective date of this subtitle, any action taken by a public-utility company or utility holding company to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.).

SEC. 1275. SERVICE ALLOCATION.

(a) FERC REVIEW.—In the case of nonpower goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company in order to assure that each allocation is appropriate for the protection of investors and consumers of such public utility.

(b) COST ALLOCATION.—Nothing in this section shall preclude the Commission or a State commission from exercising its jurisdiction under other applicable law with respect to the review or authorization of any costs allocated to a public utility in a holding company system located in the affected State as a result of the acquisition of nonpower goods or administrative and management services by such public utility from an associate company organized specifically for that purpose.

(c) RULES.—Not later than 6 months after the date of enactment of this Act, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this subtitle) to exempt from the requirements of this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

(d) PUBLIC UTILITY.—As used in this section, the term ''public utility'' has the meaning given that term in section 201(e) of the Federal Power Act.

SEC. 1276. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 1277. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

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

(b) DEFINITIONS.—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824(g)(5)) is amended by striking ''1935'' and inserting ''2003''.

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking ''1935'' and inserting ''2003''.

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

SEC. 1281. 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:

''SEC. 220. MARKET TRANSPARENCY RULES.

''(a) IN GENERAL.—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 under this Act. 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 on a timely basis. The Commission shall have authority to obtain such information from any electric utility or transmitting utility, including any entity described in section 201(f).

''(b) EXEMPTIONS.—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 transactions for the purchase or sale of wholesale electric energy or 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) COMMODITY FUTURES TRADING COMMISSION.—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.

''(d) SAVINGS PROVISION.—In exercising its authority under this section, the Commission shall not—

''(1) compete with, or displace from the market place, any price publisher; or

''(2) regulate price publishers or impose any requirements on the publication of information.''.

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

''No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly 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 a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

''SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

''(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

''(b) DEFINITION.—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 a specific intent to fraudulently affect reported revenues, trading volumes, or prices.''.

SEC. 1283. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting ''electric utility,'' after ''Any person,''.

(2) By inserting '', transmitting utility,'' after ''licensee'' each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''person,'' in the first 2 places it appears and by striking ''any person unless such person'' and inserting ''any entity unless such entity''.

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting '', electric utility, transmitting utility, or other entity'' after ''person'' each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: ''or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.''.

(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 ''5 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 as follows:

(1) In subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''.

(2) In subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

SEC. 1284. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended as follows:

(1) By striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint''.

(2) By striking ''60 days after'' in the third sentence and inserting ''of''.

(3) By striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''.

(4) By striking the fifth sentence and inserting the following: ''If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.''.

SEC. 1285. REFUND AUTHORITY.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding the following new subsection at the end thereof:

''(e)(1) Except as provided in paragraph (2), if an entity described in section 201(f) voluntarily makes a short-term sale of electric energy and the sale violates Commission rules in effect at the time of the sale, such entity shall be subject to the Commission's refund authority under this section with respect to such violation.

''(2) This section shall not apply to—

''(A) any entity that sells less than 8,000,000 megawatt hours of electricity per year; or

''(B) any electric cooperative.

''(3) For purposes of this subsection, the term 'short-term sale' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 31 days or less (excluding monthly contracts subject to automatic renewal).

''(4) The Commission shall have refund authority under subsection (e)(1) with respect to a voluntary short-term sale of electric energy by the Bonneville Power Administration (in this section 'Bonneville') only if the sale is at an unjust and unreasonable rate and, in that event, may order a refund only for short-term sales made by Bonneville at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by Bonneville.

''(5) With respect to any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or powers under subsection (e)(1) other than the ordering of refunds to achieve a just and reasonable rate.''.

SEC. 1286. SANCTITY OF CONTRACT.

(a) IN GENERAL.—The Federal Energy Regulatory Commission (in this section, ''the Commission'') shall have no authority to abrogate or modify any provision of an executed contract or executed contract amendment described in subsection (b) that has been entered into or taken effect, except upon a finding that failure to take such action would be contrary to the public interest.

(b) LIMITATION.—Except as provided in subsection (c), this section shall apply only to a contract or contract amendment—

(1) executed on or after the date of enactment of this Act; and

(2) entered into—

(A) for the purchase or sale of electric energy under section 205 of the Federal Power Act (16 U.S.C. 824d) where the seller has been authorized by the Commission to charge market-based rates; or

(B) under section 4 of the Natural Gas Act (15 U.S.C. 717c) where the natural gas company has been authorized by the Commission to charge market-based rates for the service described in the contract.

(c) EXCLUSION.—This section shall not apply to an executed contract or executed contract amendment that expressly provides for a standard of review other than the public interest standard.

(d) SAVINGS PROVISION.—With respect to contracts to which this section does not apply, nothing in this section alters existing law regarding the applicable standard of review for a contract subject to the jurisdiction of the Commission.

SEC. 1287. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

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

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—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.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term ''State regulatory authority'' has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms ''electric consumer'' and ''electric utility'' have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle H—Merger Reform

SEC. 1291. MERGER REVIEW REFORM AND ACCOUNTABILITY.

(a) MERGER REVIEW REFORM.—Within 180 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Federal Energy Regulatory Commission and the Attorney General of the United States, shall prepare, and transmit to Congress each of the following:

(1) A study of the extent to which the authorities vested in the Federal Energy Regulatory Commission under section 203 of the Federal Power Act are duplicative of authorities vested in—

(A) other agencies of Federal and State Government; and

(B) the Federal Energy Regulatory Commission, including under sections 205 and 206 of the Federal Power Act.

(2) Recommendations on reforms to the Federal Power Act that would eliminate any unnecessary duplication in the exercise of regulatory authority or unnecessary delays in the approval (or disapproval) of applications for the sale, lease, or other disposition of public utility facilities.

(b) MERGER REVIEW ACCOUNTABILITY.—Not later than 1 year after the date of enactment of this Act and annually thereafter, with respect to all orders issued within the preceding year that impose a condition on a sale, lease, or other disposition of public utility facilities under section 203(b) of the Federal Power Act, the Federal Energy Regulatory Commission shall transmit a report to Congress explaining each of the following:

(1) The condition imposed.

(2) Whether the Commission could have imposed such condition by exercising its authority under any provision of the Federal Power Act other than under section 203(b).

(3) If the Commission could not have imposed such condition other than under section 203(b), why the Commission determined that such condition was consistent with the public interest.

SEC. 1292. ELECTRIC UTILITY MERGERS.

(a) AMENDMENT.—Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) 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 person, by any means whatsoever; or

''(C) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility.

''(2) No holding company in a holding company system that includes a public utility shall purchase, acquire, or take any security with a value in excess of $10,000,000 of, or, by any means whatsoever, directly or indirectly, merge or consolidate with, a public utility or a holding company in a holding company system that includes a public utility with a value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

''(3) Upon receipt of an 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 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

''(D) 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 not later than 180 days after the application is filed. If the Commission does not act within 180 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 an order tolling the time for acting on the application for not more than 180 days, at the end of which additional period the Commission shall grant or deny the application.

''(6) For purposes of this subsection, the terms 'associate company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 12 months after the date of enactment of this section.

Subtitle I—Definitions

SEC. 1295. 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.—The term 'electric utility' means any person or Federal or State agency (including any entity described in section 201(f)) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing administration.''.

(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.—The term 'transmitting utility' means an entity, including any entity described in section 201(f), that owns, operates, or controls 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.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by adding at the end the following:

''(26) ELECTRIC COOPERATIVE.—The term 'electric cooperative' means a cooperatively owned electric utility.

''(27) RTO.—The term '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 nondiscriminatory access to such facilities.

''(28) ISO.—The term 'Independent System Operator' or 'ISO' means an entity 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 nondiscriminatory access to such facilities.''.

(d) COMMISSION.—For the purposes of this title, the term ''Commission'' means the Federal Energy Regulatory Commission.

(e) APPLICABILITY.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by adding after ''political subdivision of a state,'' the following: ''an electric cooperative that has financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year,''.

Subtitle J—Technical and Conforming Amendments

SEC. 1297. CONFORMING AMENDMENTS.

The Federal Power Act is amended as follows:

(1) Section 201(b)(2) of such Act (16 U.S.C. 824(b)(2)) is amended as follows:

(A) In the first sentence by striking ''210, 211, and 212'' and inserting ''203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222''.

(B) In the second sentence by striking ''210 or 211'' and inserting ''203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222''.

(C) Section 201(b)(2) of such Act is amended by striking ''The'' in the first place it appears and inserting ''Notwithstanding section 201(f), the'' and in the second sentence after ''any order'' by inserting ''or rule''.

(2) Section 201(e) of such Act is amended by striking ''210, 211, or 212'' and inserting ''206(e), 206(f), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222''.

(3) Section 206 of such Act (16 U.S.C. 824e) is amended as follows:

(A) In subsection (b), in the seventh sentence, by striking ''the public utility to make''.

(B) In the first sentence of subsection (a), by striking ''hearing had'' and inserting ''hearing held''.

(4) Section 211(c) of such Act (16 U.S.C. 824j(c)) is amended by—

(A) striking ''(2)'';

(B) striking ''(A)'' and inserting ''(1)''

(C) striking ''(B)'' and inserting ''(2)''; and

(D) striking ''termination of modification'' and inserting ''termination or modification''.

(5) Section 211(d)(1) of such Act (16 U.S.C. 824j(d)(1)) is amended by striking ''electric utility'' the second time it appears and inserting ''transmitting utility''.

(6) Section 315 (c) of such Act (16 U.S.C. 825n(c)) is amended by striking ''subsection'' and inserting ''section''.

TITLE XIII—ENERGY TAX INCENTIVES

SEC. 1300. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Energy Tax Policy Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title 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.

Subtitle A—Conservation

PART I—RESIDENTIAL AND BUSINESS PROPERTY

SEC. 1301. 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 solar water heating property expenditures made by the taxpayer during such year,

''(2) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

''(3) 15 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

''(4) 20 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed under subsection (a) shall not exceed—

''(i) $2,000 for property described in paragraph (1), (2), or (3) of subsection (c), and

''(ii) $500 for each 0.5 kilowatt of capacity of property described in subsection (c)(4).

''(B) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—In determining the amount of the credit allowed to a taxpayer with respect to any dwelling unit under this section, the dollar amount under subparagraph (A)(i) with respect to each type of property described in such subparagraph shall be reduced by the credit allowed to the taxpayer under this section with respect to such property for all preceding taxable years with respect to such dwelling unit.

''(2) PROPERTY STANDARDS.—No credit shall be allowed under this section for an item of property unless—

''(A) the original use of such property commences with the taxpayer,

''(B) such property reasonably can be expected to remain in use for at least 5 years,

''(C) such property is installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer,

''(D) in the case of solar water heating property, such property is certified for performance by the non-profit Solar Rating and Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(E) in the case of fuel cell property, such property meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

''(F) in the case of any photovoltaic property, fuel cell property, or wind energy property, such property meets appropriate fire and electric code requirements.

''(c) 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 which uses solar energy to heat water for use in a dwelling unit.

''(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 and which is not described in paragraph (1).

''(3) 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.

''(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for any qualified fuel cell property (as defined in section 48(c)(1)).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) 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) of subsection (c) solely because it constitutes a structural component of the structure on which it is installed.

''(2) 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.

''(3) 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 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.

''(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), (3), and (4) of subsection (c).

''(4) 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 the individual's tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(5) 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.

''(6) 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.

''(7) 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.

''(8) 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)(4)(C)).

''(9) DENIAL OF DEPRECIATION ON WIND ENERGY PROPERTY FOR WHICH CREDIT ALLOWED.—No deduction shall be allowed under section 167 for property which uses wind energy to generate electricity if the taxpayer is allowed a credit under this section with respect to such property.

''(e) 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.

''(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2006 (December 31, 2008, with respect to qualified photovoltaic property expenditures).''.

(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 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(2) 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.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2003.

SEC. 1302. 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) open-loop biomass,

''(D) geothermal energy,

''(E) solar energy,

''(F) small irrigation power, and

''(G) 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) OPEN-LOOP BIOMASS.—

''(A) IN GENERAL.—The term 'open-loop 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.

Such term shall not include closed-loop biomass.

''(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 nameplate capacity rating of which is not less than 150 kilowatts but is less than 5 megawatts.

''(6) 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 Policy Act of 2004,

''(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) OPEN-LOOP BIOMASS FACILITIES.—

''(A) IN GENERAL.—In the case of a facility using open-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—

''(I) is originally placed in service after the date of the enactment of the Energy Tax Policy Act of 2004 and before January 1, 2007, and

''(II) the nameplate capacity rating of which is not less than 150 kilowatts, and

''(ii) in the case of any other facility, is originally placed in service before January 1, 2007.

''(B) 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.—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 Policy Act of 2004 and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

''(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 Policy Act of 2004 and before January 1, 2007.

''(6) LANDFILL GAS FACILITIES.—In the case of a facility producing electricity from gas derived from the biodegradation of municipal solid waste, 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 Policy Act of 2004 and before January 1, 2007.

''(7) TRASH COMBUSTION FACILITIES.—In the case of a facility which burns municipal solid waste 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 Policy Act of 2004 and before January 1, 2007.''.

(2) 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) SPECIAL CREDIT RATE AND PERIOD FOR ELECTRICITY PRODUCED AND SOLD AFTER ENACTMENT DATE.—Section 45(b) is amended by adding at the end the following new paragraph:

''(4) CREDIT RATE AND PERIOD FOR ELECTRICITY PRODUCED AND SOLD FROM CERTAIN FACILITIES.—

''(A) CREDIT RATE.—In the case of electricity produced and sold in any calendar year after 2003 at any qualified facility described in paragraph (3), (5), (6), or (7) of subsection (d), the amount in effect under subsection (a)(1) for such calendar year (determined before the application of the last sentence of paragraph (2) of this subsection) shall be reduced by one-third.

''(B) CREDIT PERIOD.—

''(i) IN GENERAL.—Except as provided in clause (ii), in the case of any facility described in paragraph (3), (4), (5), (6), or (7) of subsection (d), 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).

''(ii) CERTAIN OPEN-LOOP BIOMASS FACILITIES.—In the case of any facility described in subsection (d)(3)(A)(ii) placed in service before the date of the enactment of this paragraph, the 5-year period beginning on January 1, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).''.

(d) COORDINATION WITH OTHER CREDITS.—Section 45(e), as so redesignated, is amended by adding at the end the following new paragraph:

''(8) COORDINATION WITH OTHER CREDITS.—The term 'qualified facility' shall not include—

''(A) any property with respect to which a credit is allowed under section 25C, and

''(B) any facility the production from which is allowed as a credit under section 45K,

for the taxable year or any prior taxable year.''.

(e) COORDINATION WITH SECTION 48.—Section 48(a)(3) (defining energy property) is amended by adding at the end the following new sentence: ''Such term shall not include any property which is part of a facility the production from which is allowed as a credit under section 45 for the taxable year or any prior taxable year.''.

(f) ELIMINATION OF CERTAIN CREDIT REDUCTIONS.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by inserting ''the lesser of ½ or'' before ''a fraction'' in the matter preceding subparagraph (A), and

(2) 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).''.

(g) 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 AND PERIOD 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 before January 1, 2004.

(h) GAO STUDY.—The Comptroller General of the United States shall conduct a study on the market viability of producing electricity from resources with respect to which credit is allowed under section 45 of the Internal Revenue Code of 1986 but without such credit. In the case of open-loop biomass and municipal solid waste resources, the study should take into account savings associated with not having to dispose of such resources. In conducting such study, the Comptroller shall estimate the dollar value of the environmental impact of producing electricity from such resources relative to producing electricity from fossil fuels using the latest generation of technology. Not later than June 30, 2006, the Comptroller shall report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 1303. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.

(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,''.

(b) QUALIFIED FUEL CELL PROPERTY.—Section 48 (relating to energy credit; reforestation credit) is amended by adding at the end the following new subsection:

''(c) QUALIFIED FUEL CELL PROPERTY.—For purposes of subsection (a)(3)(A)(iii)—

''(1) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which generates at least 0.5 kilowatt of electricity using an electrochemical process.

''(2) LIMITATION.—The energy credit with respect to any qualified fuel cell property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

''(3) 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.

''(4) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2006.''.

(c) ENERGY PERCENTAGE.—Subparagraph (A) of section 48(a)(2) (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, 20 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by inserting ''except as provided in subsection (c)(2),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2003, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1304. 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 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling unit shall not exceed $2,000.

''(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling unit for all prior taxable years.

''(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

''(1) such component is installed in or on a dwelling unit—

''(A) located in the United States,

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121), and

''(C) which has not been treated as a qualified new energy efficient home for purposes of any credit allowed under section 45G,

''(2) the original use of such component commences with the taxpayer, and

''(3) such component reasonably can be expected to remain in use for at least 5 years. If the aggregate cost of such components with respect to any dwelling unit exceeds $1,000, such components shall be treated as qualified energy efficiency improvements only if such components are also certified in accordance with subsection (d) as meeting such prescriptive criteria.

''(d) CERTIFICATION.—The certification described in subsection (c) shall be—

''(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency (based upon energy use or building envelope component performance) for the energy efficient building envelope component,

''(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Residential Energy Services Network (RESNET), and

''(3) made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

''(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) 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 dwelling unit when installed in or on such dwelling unit,

''(B) exterior windows (including skylights),

''(C) exterior doors, and

''(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

''(2) MANUFACTURED HOMES INCLUDED.—The term 'dwelling unit' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

''(3) APPLICATION OF RULES.—Rules similar to the rules under paragraphs (3), (4), and (5) of section 25C(d) shall apply.

''(f) 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.

''(g) APPLICATION OF SECTION.—This section shall apply to qualified energy efficiency improvements installed after December 31, 2003, and before January 1, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, 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 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(2) 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.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2003.

SEC. 1305. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) 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 with respect to a qualified new energy efficient home, the credit determined under this section for the taxable year with respect to such home is an amount equal to the aggregate adjusted bases of all energy efficient property installed in such home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a dwelling unit shall not exceed—

''(i) in the case of a dwelling unit described in clause (i) or (iii) of subsection (c)(3)(D), $1,000, and

''(ii) in the case of a dwelling unit described in subsection (c)(3)(D)(ii), $2,000.

''(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING UNIT TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to such dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling unit for all prior 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 qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

''(B) expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

''(A) the person who constructed the qualified new energy efficient home, or

''(B) in the case of a qualified new energy efficient 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 qualified new energy efficient 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, result in a dwelling unit meeting the requirements of this section.

''(3) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling unit—

''(A) located in the United States,

''(B) the construction of which is substantially completed after December 31, 2003,

''(C) the original use of which, after such construction, is reasonably expected to be as a residence by the person who acquires such dwelling unit from the eligible contractor,

''(D) which is—

''(i) certified to have a level of annual heating and cooling energy consumption which is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and to have building envelope component improvements account for at least ⅓ of such 30 percent,

''(ii) certified to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least ⅕ of such 50 percent, or

''(iii) a manufactured home which—

''(I) conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations), and

''(II) meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

''(4) CONSTRUCTION.—The term 'construction' includes substantial reconstruction and rehabilitation.

''(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

''(6) 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 dwelling unit when installed in or on such dwelling unit,

''(B) exterior windows (including skylights),

''(C) exterior doors, and

''(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which—

''(i) are specifically and primarily designed to reduce the heat gain of such dwelling unit, and

''(ii) meet the Energy Star program requirements.

''(d) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—A certification described in subsection (c)(3)(D) shall be determined in accordance with guidance prescribed by the Secretary. Such guidance shall specify procedures and methods for calculating energy and cost savings.

''(2) FORM.—A certification described in subsection (c)(3)(D) shall be made in writing—

''(A) 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

''(B) in the case of a qualified new energy efficient 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.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is determined 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 determined.

''(f) APPLICATION OF SECTION.—Subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on January 1, 2004, and ending on December 31, 2006.''.

(b) CREDIT MADE PART OF GENERAL 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 new energy efficient home credit determined under section 45G(a).''.

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ''; and'', and by adding at the end the following new paragraph:

''(31) to the extent provided in section 45G(e), in the case of amounts with respect to which a credit has been allowed under section 45G.''.

(d) LIMITATION ON CARRYBACK.—

(1) IN GENERAL.—Subsection (d) of section 39 is amended to read as follows:

''(d) TRANSITIONAL RULE.—No portion of the unused business credit for any taxable year which is attributable to a credit specified in section 38(b) or any portion thereof may be carried back to any taxable year before the first taxable year for which such specified credit or such portion is allowable (without regard to subsection (a)).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to taxable years ending after December 31, 2002.

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) 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 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 taxable years ending after December 31, 2003.

SEC. 1306. 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 (relating to energy credit; reforestation credit), as amended by this Act, is amended by adding at the end the following new subsection:

''(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(iv)—

''(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and

power system property' means property comprising a system—

''(A) 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),

''(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(C) 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),

''(D) the energy efficiency percentage of which exceeds 60 percent, and

''(E) which is placed in service before January 1, 2007.

''(2) SPECIAL RULES.—

''(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, 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 fuel sources for the system.

''(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

''(C) 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.

''(D) 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 subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(ii) CERTAIN EXCEPTION NOT TO APPLY.—The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

''(3) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse for at least 90 percent of the energy source—

''(A) paragraph (1)(D) shall not apply, but

''(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 2003, 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. 1307. 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.—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—

''(1) the tier I appliance amount, and

''(2) the tier II appliance amount,

with respect to qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(b) APPLIANCE AMOUNTS.—For purposes of subsection (a)—

''(1) TIER I APPLIANCE AMOUNT.—The tier I appliance amount is equal to—

''(A) $100, multiplied by

''(B) an amount (rounded to the nearest whole number) equal to the applicable percentage of the eligible production.

''(2) TIER II APPLIANCE AMOUNT.—The tier II appliance amount is equal to $150, multiplied by an amount equal to the eligible production reduced by the amount determined under paragraph (1)(B).

''(3) APPLICABLE PERCENTAGE.—The applicable percentage is the percentage determined by dividing the tier I appliances produced by the taxpayer during the calendar year by the sum of the tier I and tier II appliances so produced.

''(4) ELIGIBLE PRODUCTION.—The eligible production of qualified energy efficient appliances by the taxpayer for any calendar year is the excess of—

''(A) the number of such appliances which are produced by the taxpayer during such calendar year, over

''(B) 110 percent of the average annual number of such appliances which were produced by the taxpayer (or any predecessor) during the preceding 3-calendar year period.

''(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy efficient appliance' means any tier I appliance or tier II appliance which is produced in the United States.

''(2) TIER I APPLIANCE.—The term 'tier I appliance' means—

''(A) a clothes washer which is produced with at least a 1.50 MEF, and

''(B) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator produced after 2006) less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001.

''(3) TIER II APPLIANCE.—The term 'tier II appliance' means a refrigerator produced before 2007 which consumes at least 20 percent less kilowatt hours per year than the energy conservation standards described in paragraph (2)(B).

''(4) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

''(5) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(6) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

''(7) PRODUCED.—The term 'produced' includes manufactured.

''(d) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $60,000,000, reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for any prior taxable year.

''(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 for 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.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

''(2) CONTROLLED GROUPS.—

''(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, after consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply with respect to 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 (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 energy efficient appliance credit determined under section 45H(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45H. Energy efficient appliance credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2003, in taxable years ending after such date.

SEC. 1308. 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 an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The deduction under subsection (a) with respect to any building for the taxable year and all prior taxable years shall not exceed an amount equal to the product of—

''(1) $1.50, and

''(2) the square footage of the building.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term 'energy efficient commercial building property' means property—

''(A) which is installed on or in a building—

''(i) which is located in the United States, and

''(ii) which is the type of structure to which the Standard 90.1–2001 is applicable,

''(B) which is installed as part of—

''(i) the lighting systems,

''(ii) the heating, cooling, ventilation, and hot water systems, or

''(iii) the building envelope, and

''(C) which is certified in accordance with subsection (d)(4) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1–2001 using methods of calculation under subsection (d)(2).

''(2) STANDARD 90.1–2001.—The term 'Standard 90.1–2001' means Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

''(d) SPECIAL RULES.—

''(1) PARTIAL ALLOWANCE.—

''(A) IN GENERAL.—Except as provided in subsection (f), in the case of a building placed in service on or before the date of the enactment of this section, if—

''(i) the requirement of subsection (c)(1)(C) is not met, but

''(ii) there is a certification in accordance with subsection (d)(4) that any system referred to in subsection (c)(1)(B) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(C) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '$.50' for '$1.50'.

''(B) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(B) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(C).

''(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power cost for purposes of this section.

''(3) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs.

''(4) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

''(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be—

''(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, and

''(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the deduction under this section regardless of whether such building uses a gas or oil furnace or boiler, an electric heat pump, or other fuel source.

''(C) 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.

''(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(f) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system—

''(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

''(2) REDUCTION IN DEDUCTION IF REDUCTION LESS THAN 40 PERCENT.—

''(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

''(i) 50, and

''(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

''(C) EXCEPTIONS.—This subsection shall not apply to any system—

''(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

''(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

''(g) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

''(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

''(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(C) or (d)(1)(A) is not fully implemented.

''(h) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this section, 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(e).''.

(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 property placed in service after the date of the enactment of this Act in taxable years ending after such date.

SEC. 1309. 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) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (A)(iii) the following:

''(A) (iv) ..... 20''.

(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. 1310. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(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 after section 45K the following new section:

''SEC. 45L. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

''(a) GENERAL RULE.—For purposes of section 38, the advanced nuclear power facility production credit of any taxpayer for any taxable year is equal to the product of—

''(1) 1.8 cents, multiplied by

''(2) the kilowatt hours of electricity—

''(A) produced by the taxpayer at an advanced nuclear power facility during the 8-year period beginning on the date the facility was originally placed in service, and

''(B) sold by the taxpayer to an unrelated person during the taxable year.

''(b) NATIONAL LIMITATION.—

''(1) IN GENERAL.—The amount of credit which would (but for this subsection and subsection (c)) be allowed with respect to any facility for any taxable year shall not exceed the amount which bears the same ratio to such amount of credit as—

''(A) the national megawatt capacity limitation allocated to the facility, bears to

''(B) the total megawatt nameplate capacity of such facility.

''(2) AMOUNT OF NATIONAL LIMITATION.—The national megawatt capacity limitation shall be 6,000 megawatts.

''(3) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation in such manner as the Secretary may prescribe.

''(4) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations shall provide a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation.

''(c) OTHER LIMITATIONS.—

''(1) ANNUAL LIMITATION.—The amount of the credit allowable under subsection (a) (after the application of subsection (b)) for any taxable year with respect to any facility shall not exceed an amount which bears the same ratio to $125,000,000 as—

''(A) the national megawatt capacity limitation allocated under subsection (b) to the facility, bears to

''(B) 1,000.

''(2) OTHER LIMITATIONS.—Rules similar to the rules of section 45(b) shall apply for purposes of this section, except that paragraph (2) thereof shall not apply to the 1.8 cents under subsection (a)(1).

''(d) ADVANCED NUCLEAR POWER FACILITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'advanced nuclear power facility' means any advanced nuclear facility—

''(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity, and

''(B) which is placed in service after the date of the enactment of this paragraph and before January 1, 2021.

''(2) ADVANCED NUCLEAR FACILITY.—For purposes of paragraph (1), the term 'advanced nuclear facility' means any nuclear facility the reactor design for which is approved after the date of the enactment of this paragraph by the Nuclear Regulatory Commission (and such design or a substantially similar design of comparable capacity was not approved on or before such date).

''(e) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (5) of section 45(e) shall apply for purposes of this section.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), 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:

''(22) the advanced nuclear power facility production credit determined under section 45L(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following:

''Sec. 45L. Credit for production from advanced nuclear power facilities.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2003.

PART II—FUELS AND ALTERNATIVE MOTOR VEHICLES

SEC. 1311. 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. 1312. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.

(a) IN GENERAL.—Paragraph (2) of section 4081(a) is amended by adding at the end the following:

''(C) DIESEL-WATER FUEL EMULSION.—In the case of diesel-water fuel emulsion at least 14 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting '19.7 cents' for '24.3 cents'.''.

(b) SPECIAL RULES FOR DIESEL-WATER FUEL EMULSIONS.—

(1) REFUNDS FOR TAX-PAID PURCHASES.—Section 6427 is amended by redesignating subsections (m) through (p) as subsections (n) through (q), respectively, and by inserting after subsection (l) the following new subsection:

''(m) DIESEL FUEL USED TO PRODUCE EMULSION.—

''(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(C) 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 4081 determined without regard to section 4081(a)(2)(C).

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(C).''.

(2) LATER SEPARATION OF FUEL.—

(A) IN GENERAL.—Section 4081 (relating to imposition of tax) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) LATER SEPARATION OF FUEL FROM DIESEL-WATER FUEL EMULSION.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(C) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.''.

(B) CONFORMING AMENDMENT.—Subsection (d) of section 6416 is amended by striking ''section 4081(e)'' and inserting ''section 4081(f)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

SEC. 1313. 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 RULE.—If the amount of a credit which has been apportioned to any patron under this paragraph is decreased for any reason—

''(i) such amount shall not increase the tax imposed on such patron, and

''(ii) the tax imposed by this chapter on such organization shall be increased by such amount.

The increase under clause (ii) 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) 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''.

(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 December 31, 2003.

SEC. 1314. INCENTIVES FOR BIODIESEL.

(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. 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 a taxable fuel (within the meaning of section 4083(a)(1)) 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 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.—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'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426.

''(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 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, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—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 the 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 such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel 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)(2)(A) and the number of gallons of such biodiesel.

''(C) 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) or (B) 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 sale or use after December 31, 2005.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) 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 biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 87 is amended to read as follows:

''SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(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''.

(2) Section 196(c), as amended by this Act, is amended by striking ''and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', and'', and by adding at the end the following new paragraph:

''(13) the biodiesel fuels credit determined under section 40A(a).''.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2003, in taxable years ending after such date.

SEC. 1315. 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 product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

''(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' means a mixture of alcohol and a taxable fuel which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such 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, use, or removal 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 biodiesel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

''(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

''(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and a taxable fuel which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal 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 biodiesel mixture, respectively, and

''(B) any person—

''(i) separates the 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.

''(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.''.

(b) REGISTRATION REQUIREMENT.—Section 4101(a) (relating to registration) is amended by inserting ''and every person producing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))'' after ''4091''.

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking ''or section 4091(c)'' and inserting ''section 4091(c), or section 6426''.

(2) 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''.

(3) 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''.

(4)(A) Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits under the provisions of section 34, 40, 40A, 4041(b)(2), 4041(k), 4081(c), 6426, or 6427(f) to file a quarterly return (in such manner as the Secretary may prescribe) providing such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(b) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(B) The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(5) Section 6427(i)(3) is amended—

(A) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'', and

(B) 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)''.

(6) 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.''.

(d) CLERICAL AMENDMENT.—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.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to fuel sold, used, or removed after December 31, 2003.

(2) SUBSECTION (c)(4).—The amendments made by subsection (c)(4) shall take effect on January 1, 2004.

(3) SUBSECTION (c)(5).—The amendments made by subsection (c)(5) shall apply to claims filed after December 31, 2004.

(f) FORMAT FOR FILING.—The Secretary of the Treasury shall prescribe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(5)(A)) not later than December 31, 2004.

SEC. 1316. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

SEC. 1317. REPEAL OF PHASEOUTS FOR QUALIFIED ELECTRIC VEHICLE CREDIT AND DEDUCTION FOR CLEAN FUEL-VEHICLES.

(a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Subsection (b) of section 30 (relating to limitations) is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—Paragraph (1) of section 179A(b) (relating to qualified clean-fuel vehicle property) is amended to read as follows:

''(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

''(A) in the case of a motor vehicle not described in subparagraph (B) or (C), $2,000,

''(B) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

''(C) $50,000 in the case of—

''(i) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

''(ii) any bus which has a seating capacity of at least 20 adults (not including the driver).''.

(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.

SEC. 1318. 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:

''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 advanced lean burn technology motor vehicle credit determined under subsection (c),

''(3) the new qualified hybrid motor vehicle credit determined under subsection (d), and

''(4) the new qualified alternative fuel motor vehicle credit determined under subsection (e).

''(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 shall be determined in accordance with the following table:

''In the case of a vehicle which has a gross vehicle weight rating of—	The new qualified fuel cell motor vehicle credit is—
Not more than 8,500 lbs	$4,000
More than 8,500 lbs but not more than 14,000 lbs	$10,000
More than 14,000 lbs but not more than 26,000 lbs	$20,000
More than 26,000 lbs	$40,000.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by the additional credit amount.

''(B) ADDITIONAL CREDIT AMOUNT.—For purposes of subparagraph (A), the additional credit amount shall be determined in accordance with the following table:

''In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—	The additional credit amount is—
At least 150 percent but less than 175 percent	$1,000
At least 175 percent but less than 200 percent	$1,500
At least 200 percent but less than 225 percent	$2,000
At least 225 percent but less than 250 percent	$2,500
At least 250 percent but less than 275 percent	$3,000
At least 275 percent but less than 300 percent	$3,500
At least 300 percent	$4,000.

''(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 one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck, has received—

''(i) 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) a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission standard 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 ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) FUEL ECONOMY.—The credit amount determined under this paragraph shall be determined in accordance with the following table:

''In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—	The credit amount is—
At least 125 percent but less than 150 percent	$400
At least 150 percent but less than 175 percent	$800
At least 175 percent but less than 200 percent	$1,200
At least 200 percent but less than 225 percent	$1,600
At least 225 percent but less than 250 percent	$2,000
At least 250 percent	$2,400.

''(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to a new advanced lean burn technology motor vehicle shall be increased by the conservation credit amount determined in accordance with the following table:

''In the case of a vehicle which achieves a lifetime fuel savings (expressed in gallons of gasoline) of—	The conservation credit amount is—
At least 1,200 but less than 1,800	$250
At least 1,800 but less than 2,400	$500
At least 2,400 but less than 3,000	$750
At least 3,000	$1,000.

''(3) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—For purposes of this subsection, the term 'new advanced lean burn technology motor vehicle' means a passenger automobile or a light truck—

''(A) with an internal combustion engine which—

''(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

''(ii) incorporates direct injection,

''(iii) achieves at least 125 percent of the 2002 model year city fuel economy,

''(iv) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds—

''(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard 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, and

''(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established.

''(B) the original use of which commences with the taxpayer,

''(C) which is acquired for use or lease by the taxpayer and not for resale, and

''(D) which is made by a manufacturer.

''(4) LIFETIME FUEL SAVINGS.—For purposes of this subsection, the term 'lifetime fuel savings' means, in the case of any new advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

''(A) 120,000 divided by the 2002 model year city fuel economy for the vehicle inertia weight class, over

''(B) 120,000 divided by the city fuel economy for such vehicle.

''(d) 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) CREDIT AMOUNT FOR PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which has a gross vehicle weight rating of not more than 8,500 pounds, the amount determined under this paragraph is the sum of the amounts determined under clauses (i) and (ii).

''(i) FUEL ECONOMY.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(A) if such vehicle were a vehicle referred to in such subsection.

''(ii) CONSERVATION CREDIT.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(B) if such vehicle were a vehicle referred to in such subsection.

''(B) CREDIT AMOUNT FOR OTHER MOTOR VEHICLES.—

''(i) IN GENERAL.—In the case of any new qualified hybrid motor vehicle to which subparagraph (A) does not apply, the amount determined under this paragraph is the amount equal to the applicable percentage of the qualified incremental hybrid cost of the vehicle as certified under clause (v).

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

''(I) 20 percent if the vehicle achieves an increase in city fuel economy relative to a comparable vehicle of at least 30 percent but less than 40 percent,

''(II) 30 percent if the vehicle achieves such an increase of at least 40 percent but less than 50 percent, and

''(III) 40 percent if the vehicle achieves such an increase of at least 50 percent.

''(iii) QUALIFIED INCREMENTAL HYBRID COST.—For purposes of this subparagraph, the qualified incremental hybrid cost of any vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a comparable vehicle, to the extent such amount does not exceed—

''(I) $7,500, if such vehicle has a gross vehicle weight rating of not more than 14,000 pounds,

''(II) $15,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(III) $30,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(iv) COMPARABLE VEHICLE.—For purposes of this subparagraph, the term 'comparable vehicle' means, with respect to any new qualified hybrid motor vehicle, any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in weight, size, and use to such vehicle.

''(v) CERTIFICATION.—A certification described in clause (i) shall be made by the manufacturer and shall be determined in accordance with guidance prescribed by the Secretary. Such guidance shall specify procedures and methods for calculating fuel economy savings and incremental hybrid costs.

''(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 vehicle to which paragraph (2)(A) applies, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard 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, and

''(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

''(iii) which has a maximum available power of at least—

''(I) 4 percent in the case of a vehicle to which paragraph (2)(A) applies,

''(II) 10 percent in the case of a vehicle which has a gross vehicle weight rating or more than 8,500 pounds and not than 14,000 pounds, and

''(III) 15 percent in the case of a vehicle in excess of 14,000 pounds,

''(iv) which, in the case of a vehicle to which paragraph (2)(B) applies, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the 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,

''(v) the original use of which commences with the taxpayer,

''(vi) which is acquired for use or lease by the taxpayer and not for resale, and

''(vii) which is made by a manufacturer.

Such term shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(C) MAXIMUM AVAILABLE POWER.—

''(i) CERTAIN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a vehicle to which paragraph (2)(A) applies, 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) OTHER MOTOR VEHICLES.—In the case of a vehicle to which paragraph (2)(B) applies, 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. For purposes of the preceding sentence, the term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

''(e) 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 has a gross vehicle weight rating of more than 14,000 pounds, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Policy 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.

''(f) LIMITATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a qualified vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (c) or (d) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section is at least 80,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—

''(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(5) QUALIFIED VEHICLE.—For purposes of this subsection, the term 'qualified vehicle'

means any new qualified hybrid motor vehicle and any new advanced lean burn technology motor vehicle.

''(g) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27 and 30 for the taxable year.

''(h) 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) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) 2002 MODEL YEAR CITY FUEL ECONOMY.—

''(A) IN GENERAL.—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:

''(ii) In the case of a light truck:

''(B) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (A), 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.).

''(4) FUEL ECONOMY.—Fuel economy with respect to any vehicle shall be measured under rules similar to the rules under section 4064(c).

''(5) REDUCTION IN BASIS.—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 paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter (other than the credits allowable under this section and section 30) shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(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 NOT TO 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) BUSINESS CARRYOVERS ALLOWED.—If the credit allowable under subsection (a) for a taxable year exceeds the limitation under subsection (g) for such taxable year, such excess (to the extent of the credit allowable with respect to property subject to the allowance for depreciation) shall be allowed as a credit carryback and carryforward under rules similar to the rules of section 39.

''(11) INTERACTION WITH 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 the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(i) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) DETERMINATION OF MOTOR VEHICLE ELIGIBILITY.—The Secretary, after 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.

''(j) TERMINATION.—This section shall not apply to any property placed in service after—

''(1) in the case of a new qualified alternative fuel motor vehicle, December 31, 2006,

''(2) in the case of a new advanced lean burn technology motor vehicle or a new qualified hybrid motor vehicle, December 31, 2008, and

''(3) in the case of a new qualified fuel cell motor vehicle, December 31, 2012.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—No credit shall be allowed under this section for any motor vehicle for which a credit is also allowed under section 30B.''.

(2) 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:

''(33) to the extent provided in section 30B(h)(5).''.

(3) Section 6501(m) is amended by inserting ''30B(h)(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:

''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.

(d) STICKER INFORMATION REQUIRED AT RETAIL SALE.—

(1) IN GENERAL.—The Secretary of the Treasury shall issue regulations under which each qualified vehicle sold at retail shall display a notice—

(A) that such vehicle is a qualified vehicle, and

(B) that the buyer may not benefit from the credit allowed under section 30B of the Internal Revenue Code of 1986 if such buyer has insufficient tax liability.

(2) QUALIFIED VEHICLE.—For purposes of paragraph (1), the term ''qualified vehicle'' means a vehicle with respect to which a credit is allowed under section 30B of the Internal Revenue Code of 1986.

SEC. 1319. MODIFICATIONS OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.

(a) 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, 2008.''.

(b) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(c) INCREASE IN LOCATION EXPENDITURES.—Section 179A(b)(2)(A)(i) is amended by striking ''$100,000'' and inserting ''$150,000''.

(d) NONBUSINESS USE OF QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(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.

Subtitle B—Reliability

SEC. 1321. NATURAL GAS GATHERING LINES TREATED AS 7–YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain 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.—Subsection (i) of section 168, as amended by this Act, is amended by adding after paragraph (15) the following new paragraph:

''(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

''(B) 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 for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

''(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.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following:

''(C) (ii) ..... 14''.

(d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: '', or in section 168(e)(3)(C)(ii)''.

(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. 1322. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain 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) is amended by inserting after the item relating to subparagraph (E)(iii) the following:

''(E) (iv) ..... 35''.

(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. 1323. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain 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 by inserting '', and'', and by adding at the end the following new clause:

''(v) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iv) the following:

''(E) (v) ..... 30''.

(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. 1324. 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 EXPENSES.—A small business refiner (as defined in section 45I(c)(1)) may elect to treat 75 percent of qualified capital costs (as defined in section 45I(c)(2)) which are paid or incurred by the taxpayer during the taxable year as expenses which are not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which paid or incurred.

''(b) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on December 31, 2002, in excess of 155,000 barrels, the number of percentage points described in subsection (a) shall be reduced (not below zero) by the product of such number (before the application of this subsection) and the ratio of such excess to 50,000 barrels.

''(c) BASIS REDUCTION.—

''(1) IN GENERAL.—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).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''.

''(d) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.''.

(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 adding at the end 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(c).''.

(5) Paragraphs (2)(C) and (3)(C) of section 1245(a), as amended by this Act, are each amended by inserting ''179C,'' after ''179B,''.

(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. 1325. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

(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. 45I. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

''(a) IN GENERAL.—For purposes of section 38, the amount of the low sulfur diesel fuel production credit determined under this section with respect to any facility of a small business refiner is an amount equal to 5 cents for each gallon of low sulfur diesel fuel produced during the taxable year by such small business refiner at such facility.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—The aggregate credit determined under subsection (a) for any taxable year with respect to any facility shall not exceed—

''(A) 25 percent of the qualified capital costs incurred by the small business refiner with respect to such facility, reduced by

''(B) the aggregate credits determined under this section for all prior taxable years with respect to such facility.

''(2) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on December 31, 2002, in excess of 155,000 barrels, the number of percentage points described in paragraph (1) shall be reduced (not below zero) by the product of such number (before the application of this paragraph) and the ratio of such excess to 50,000 barrels.

''(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

''(1) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

''(A) with respect to which not more than 1,500 individuals are engaged in the refinery operations of the business on any day during such taxable year, and

''(B) the average daily domestic refinery run or average retained production of which for all facilities of the taxpayer for the 1-year period ending on December 31, 2002, did not exceed 205,000 barrels.

''(2) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means, with respect to any facility, those costs paid or incurred during the applicable period for compliance with the applicable EPA regulations with respect to such facility, including expenditures for the construction of new process operation units or the dismantling and reconstruction of existing process units to be used in the production of low sulfur diesel fuel, associated adjacent or offsite equipment (including tankage, catalyst, and power supply), engineering, construction period interest, and sitework.

''(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.

''(4) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on January 1, 2003, and ending on the earlier of 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 or December 31, 2009.

''(5) LOW SULFUR DIESEL FUEL.—The term 'low sulfur diesel fuel' means diesel fuel with a sulfur content of 15 parts per million or less.

''(d) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

''(e) SPECIAL RULE FOR DETERMINATION OF REFINERY RUNS.—For purposes this section and section 179C(b), in the calculation of average daily domestic refinery run or retained production, only refineries which on April 1, 2003, were refineries of the refiner or a related person (within the meaning of section 613A(d)(3)), shall be taken into account.

''(f) CERTIFICATION.—

''(1) REQUIRED.—No credit shall be allowed unless, not later than the date which is 30 months after the first day of the first taxable year in which the low sulfur diesel fuel production credit is allowed with respect to a facility, the small business refiner obtains certification from the Secretary, after 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, after 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 review 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.

''(g) 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 RULE.—If the amount of a credit which has been apportioned to any patron under this subsection is decreased for any reason—

''(A) such amount shall not increase the tax imposed on such patron, and

''(B) the tax imposed by this chapter on such organization shall be increased by such amount.

The increase under subparagraph (B) 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.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (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) in the case of a small business refiner, the low sulfur diesel fuel production credit determined under section 45I(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) LOW SULFUR DIESEL FUEL PRODUCTION 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 45I(a).''.

(d) BASIS ADJUSTMENT.—Section 1016(a) (relating to adjustments to basis), as amended by this Act, is amended by striking ''and'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', and'', and by adding at the end the following new paragraph:

''(35) in the case of a facility with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(d).''.

(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 (12), by striking the period at the end of paragraph (13) and inserting '', and'', and by adding after paragraph (13) the following new paragraph:

''(14) the low sulfur diesel fuel production credit determined under section 45I(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. 45I. Credit for production of low sulfur diesel fuel.''.

(g) 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. 1326. 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 67,500 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. 1327. 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.—In the case of any qualifying electric transmission transaction for which the taxpayer elects the application of this section, qualified gain from such transaction shall be recognized—

''(A) in the taxable year which includes the date of such transaction to the extent the amount realized from such transaction exceeds—

''(i) the cost of exempt utility property which is purchased by the taxpayer during the 4-year period beginning on such date, reduced (but not below zero) by

''(ii) any portion of such cost previously taken into account under this subsection, and

''(B) ratably over the 8-taxable year period beginning with the taxable year which includes the date of such transaction, in the case of any such gain not recognized under subparagraph (A).

''(2) QUALIFIED GAIN.—For purposes of this subsection, the term 'qualified gain' means, with respect to any 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 the amount described in subparagraph (A) which is required to be included in gross income for such taxable year (determined without regard to this subsection).

''(3) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

''(A) property used 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.

''(4) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) an independent transmission provider 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) or by declaratory order is not a market participant within the meaning of such Commission's rules applicable to independent transmission providers, 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 independent transmission provider before the close of the period specified in such authorization, but not later than the close of the period applicable under subsection (a)(2)(B) as extended under paragraph (2), or

''(C) in the case of facilities subject to the jurisdiction of the Public Utility Commission of Texas—

''(i) a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission provider, or

''(ii) a political subdivision or affiliate thereof whose transmission facilities are under the operational control of a person described in clause (i).

''(5) EXEMPT UTILITY PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'exempt utility property' means property used in the trade or business of—

''(i) generating, transmitting, distributing, or selling electricity, or

''(ii) producing, transmitting, distributing, or selling natural gas.

''(B) NONRECOGNITION OF GAIN BY REASON OF ACQUISITION OF STOCK.—Acquisition of control of a corporation shall be taken into account under this subsection with respect to a qualifying electric transmission transaction only if the principal trade or business of such corporation is a trade or business referred to in subparagraph (A).

''(6) SPECIAL RULE FOR CONSOLIDATED GROUPS.—In the case of a corporation which is a member of an affiliated group filing a consolidated return, any exempt utility property purchased by another member of such group shall be treated as purchased by such corporation for purposes of applying paragraph (1)(A).

''(7) TIME FOR ASSESSMENT OF DEFICIENCIES.—If the taxpayer has made the election under paragraph (1) and any gain is recognized by such taxpayer as provided in paragraph (1)(B), then—

''(A) the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain on the transaction is realized, attributable to such gain shall not expire prior to the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of the purchase of exempt utility property or of an intention not to purchase such property, and

''(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding any law or rule of law which would otherwise prevent such assessment.

''(8) PURCHASE.—For purposes of this subsection, the taxpayer shall be considered to have purchased any property if the unadjusted basis of such property is its cost within the meaning of section 1012.

''(9) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may require and, once made, shall be irrevocable.

''(10) 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 amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1328. 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.—

''(1) IN GENERAL.—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.

''(2) CONTRIBUTIONS AFTER FUNDING PERIOD.—Notwithstanding any other provision of this section, a taxpayer may pay into the Fund in any taxable year after the last taxable year to which the ruling amount applies. Payments may not be made under the preceding sentence to the extent such payments would cause the assets of the Fund to exceed the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear power plant to which the Fund relates. The limitation under the preceding sentence shall be determined by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.''.

(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.—

''(A) IN GENERAL.—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—

''(i) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

''(ii) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.

''(B) SPECIAL RULES IF TRANSFEROR IS TAX-EXEMPT ENTITY.—

''(i) IN GENERAL.—If—

''(I) a person exempt from taxation under this title transfers an interest in a nuclear power plant,

''(II) such person has set aside amounts for nuclear decommissioning which are transferred to the transferee of the interest, and

''(III) the transferee elects the application of this subparagraph no later than the due date (including extensions) of its return of tax for the taxable year in which the transfer occurs,

the amounts so set aside shall be treated as if contributed by such person to a Fund immediately before the transfer and then transferred in the Fund to the transferee.

''(ii) LIMITATION.—The amount treated as transferred to a Fund under clause (i) shall not exceed the amount which bears the same ratio to the present value of the nuclear decommissioning costs of the transferor with respect to the nuclear power plant as the number of years the nuclear power plant has been in service bears to the estimated useful life of such power plant.

''(iii) BASIS.—The transferee's basis in any asset treated as transferred in the Fund shall be the same as the adjusted basis of such asset in the hands of the transferor.

''(iv) RULING AMOUNT REQUIRED.—This subparagraph shall not apply to any transfer unless the transferee requests from the Secretary a schedule of ruling amounts.

''(v) ELECTION DISREGARDED.—An election under this subparagraph shall be disregarded in determining the Federal income tax of the transferor.''.

(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 portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) as in effect immediately before the date of the enactment of the Energy Tax Policy Act of 2004.

''(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 to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). 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 transferor for the taxable year which includes such date.

''(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 AMENDMENTS.—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 December 31, 2003.

SEC. 1329. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking ''or'' at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

''(ii) from any provision or sale of electric energy transmission services or ancillary services if such services are provided on a nondiscriminatory open access basis under an open access transmission tariff approved or accepted by FERC or under an independent transmission provider agreement approved or accepted by FERC (other than income received or accrued directly or indirectly from a member),

''(iii) from the provision or sale of electric energy distribution services or ancillary services if such services are provided on a nondiscriminatory open access basis to distribute electric energy not owned by the mutual or electric cooperative company—

''(I) to end-users who are served by distribution facilities not owned by such company or any of its members (other than income received or accrued directly or indirectly from a member), or

''(II) generated by a generation facility not owned or leased by such company or any of its members and which is directly connected to distribution facilities owned by such company or any of its members (other than income received or accrued directly or indirectly from a member),

''(iv) from any nuclear decommissioning transaction, or

''(v) from any asset exchange or conversion transaction.''.

(2) DEFINITIONS AND SPECIAL RULES.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:

''(E) For purposes of subparagraph (C)(ii), the term 'FERC' means the Federal Energy Regulatory Commission and references to such term shall be treated as including 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))).

''(F) For purposes of subparagraph (C)(iii), 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) For purposes of subparagraph (C)(iv), 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, ETC.—Paragraph (12) of section 501(c), 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 mutual or cooperative 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 first year that the mutual or cooperative electric company offers nondiscriminatory open access or the calendar year which includes the date of the enactment of this subparagraph, if later, at the election of such company.

''(viii) A company shall not fail to be treated as a mutual or cooperative electric 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) For purposes of subparagraph (A), in the case of a mutual or cooperative electric company, income received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.''.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

''(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. 1330. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Subsection (b) of section 148 (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 a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

''(i) the 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 a business use 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) LOST CUSTOMERS.—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 the 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.—Paragraph (2) of section 141(c) (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) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—Section

141(d) is amended by adding at the end the following new paragraph:

''(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term 'nongovernmental output property' shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Subtitle C—Production

PART I—OIL AND GAS PROVISIONS

SEC. 1341. 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:

''SEC. 45J. 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 credit 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.—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 (determined under section 43(b)(3)(B) by substituting '2002' for '1990').

''(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 45K(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 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-of-oil equivalents (as defined in section 45K(d)(5)).

''(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) 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-of-oil equivalents (as so defined), 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).

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which 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 45K for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 45K with respect to the well.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following:

''(20) the marginal oil and gas well production credit determined under section 45J(a).''.

(c) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following:

''(3) 5-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—Notwithstanding subsection (d), in the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '5 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '25 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '24 taxable years' for '20 taxable years' in subparagraph (B) thereof.''.

(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:

''Sec. 45J. Credit for producing oil and gas from marginal wells.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2003.

SEC. 1342. TEMPORARY SUSPENSION OF LIMITATION BASED ON 65 PERCENT OF TAXABLE INCOME AND EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.

(a) LIMITATION BASED ON 65 PERCENT OF TAXABLE INCOME.—Subsection (d) of section 613A (relating to limitation on percentage depletion in case of oil and gas wells) is amended by adding at the end the following new paragraph:

''(6) TEMPORARY SUSPENSION OF TAXABLE INCOME LIMIT.—Paragraph (1) shall not apply to taxable years beginning after December 31, 2003, and before January 1, 2005, including with respect to amounts carried under the second sentence of paragraph (1) to such taxable years.''.

(b) EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.—Subparagraph (H) of section 613A(c)(6) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''2004'' and inserting ''2005''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 1343. 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. 1344. 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 amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 1345. 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.—Notwithstanding subsection (f)—

''(1) NEW OIL AND GAS WELLS AND FACILITIES.—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, this section shall apply with respect to such fuels produced at such well or facility and sold during the period—

''(A) beginning on the later of January 1, 2004, or the date that such well is drilled or such facility is placed in service, and

''(B) ending on the earlier of the date which is 4 years after the date such period began or December 31, 2009.

''(2) OLD OIL AND GAS WELLS AND FACILITIES.—In the case of a well or facility producing qualified fuels described in subparagraph (A) or (B)(i) of subsection (c)(1) or a facility producing natural gas and byproducts by coal gasification from lignite, subsection (f)(2) shall be applied by substituting '2008' for '2003' with respect to wells and facilities described in subsection (f)(1) with respect to such fuels.

''(3) EXTENSION FOR FACILITIES PRODUCING QUALIFIED FUEL FROM LANDFILL GAS.—

''(A) IN GENERAL.—In the case of a facility for producing qualified fuel from landfill gas which was placed in service after June 30, 1998, and before January 1, 2007, this section shall apply to fuel produced at such facility and sold during the period—

''(i) beginning on the later of January 1, 2004, or the date that such facility is placed in service, and

''(ii) ending on the earlier of the date which is 4 years after the date such period began or December 31, 2009.

''(B) REDUCTION OF CREDIT FOR CERTAIN LANDFILL FACILITIES.—In the case of a facility to which subparagraph (A) applies and which is located at a landfill which is required pursuant to section 60.751(b)(2) or section 60.33c of title 40, Code of Federal Regulations (as in effect on April 3, 2003) to install and operate a collection and control system which captures gas generated within the landfill, subsection (a)(1) shall be applied to gas so captured by substituting '$2' for '$3' for the taxable year during which such system is required to be installed and operated.

''(4) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

''(A) IN GENERAL.—In the case of any facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which is 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 and sold during the period—

''(i) beginning on the later of January 1, 2004, or the date that such facility is placed in service, and

''(ii) ending on the earlier of the date which is 4 years after the date such period began or December 31, 2009.

''(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.

''(5) FACILITIES PRODUCING REFINED COAL.—

''(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which is placed in service after the date of the enactment of this subsection and before January 1, 2008, this section shall apply with respect to fuel produced at such facility and sold 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 the taxpayer certifies (in such manner as the Secretary may prescribe) 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) ADVANCED CLEAN COAL TECHNOLOGY UNITS EXCLUDED.—A facility described in this subparagraph shall not include any advanced clean coal technology unit (as defined in section 48A(e)).

''(6) COALMINE GAS.—

''(A) IN GENERAL.—This section shall apply to coalmine gas—

''(i) captured or extracted by the taxpayer during the period beginning on the day after the date of the enactment of this subsection and ending on December 31, 2006, 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 Federal pollution prevention, control, and permit requirements.

''(7) COKE AND COKE GAS.—In the case of a facility for producing coke or coke gas which was placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2007, this section shall apply with respect to coke and coke gas produced in such facility and sold during the during the period—

''(A) beginning on the later of January 1, 2004, or the date that such facility is placed in service, and

''(B) ending on the earlier of the date which is 4 years after the date such period began or December 31, 2009.

''(8) 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 (3), (4), (5), or (6) 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 property or facility shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the property or facility is placed in service shall not be taken into account in determining such average.

''(C) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT AND NEW PHASE-OUT ADJUSTMENT.—For purposes of applying subsection (b)(2), in the case of fuels sold after 2003—

''(i) paragraphs (1)(A) and (2) of subsection (b) shall be applied by substituting '$35.00' for '$23.50', and

''(ii) subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1979'.

''(D) DENIAL OF DOUBLE BENEFIT.—This subsection shall not apply to any facility producing qualified fuels for which a credit was allowed under this section for the taxable year or any preceding taxable year by reason of subsection (g).''.

(b) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 29, as amended by this Act, as section 45K and by moving section 45K (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) 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:

''(21) the nonconventional source production credit determined under section 45K(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(2)(A), as redesignated by section 1317(a), is amended by striking ''sections 27 and 29'' and inserting ''section 27''.

(B) Sections 43(b)(2) and 613A(c)(6)(C) are each amended by striking ''section 29(d)(2)(C)'' and inserting ''section 45K(d)(2)(C)''.

(C) Section 45K(a), as redesignated by paragraph (1), is amended by striking ''At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year'' and inserting ''For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is''.

(D) Section 45K(b), as so redesignated, is amended by striking paragraph (6).

(E) Section 53(d)(1)(B)(iii) is amended by striking ''under section 29'' and all that follows through ''or not allowed''.

(F) Section 55(c)(2) is amended by striking ''29(b)(6),''.

(G) Subsection (a) of section 772 is amended by inserting ''and'' at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(H) Paragraph (5) of section 772(d) is amended by striking ''the foreign tax credit, and the credit allowable under section 29'' and inserting ''and the foreign tax credit''.

(I) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(J) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45J the following new item:

''Sec. 45K. Credit for producing fuel from a nonconventional source.''.

(c) DETERMINATIONS UNDER NATURAL GAS POLICY ACT OF 1978.—Subparagraph (A) of section 45K(c)(2), as redesignated by subsection (b)(1), is amended—

(1) by inserting ''by the Secretary, after consultation with the Federal Energy Regulatory Commission,'' after ''shall be made'', and

(2) by inserting ''(as in effect before the repeal of such section)'' after ''1978''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel produced and sold after December 31, 2003, in taxable years ending after such date.

(2) DETERMINATIONS UNDER NATURAL GAS POLICY ACT OF 1978.—The amendments made by subsection (c) shall apply as if included in the provisions repealing section 503 of the Natural Gas Policy Act of 1978.

PART II—ALTERNATIVE MINIMUM TAX PROVISIONS

SEC. 1346. NEW NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—

(1) SECTION 25C.—Section 25C(b), as added by section 1301 of this Act, 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) SECTION 25D.—Section 25D(b), as added by section 1304 of this Act, 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.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) is amended by inserting ''and sections 25C and 25D'' after ''this section''.

(2) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, 25C, and 25D''.

(3) Section 25(e)(1)(C) is amended by inserting ''25C, and 25D'' after ''25B,''.

(4) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23, 25C, and 25D''.

(5) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, 25C, and 25D''.

(6) Section 904(h) is amended by striking ''and 25B'' and inserting ''25B, 25C, and 25D''.

(7) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, 25C, and 25D''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 1347. BUSINESS RELATED ENERGY CREDITS ALLOWED AGAINST REGULAR 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 SPECIFIED ENERGY CREDITS.—

''(A) IN GENERAL.—In the case of specified energy credits—

''(i) this section and section 39 shall be applied separately with respect to such credits, and

''(ii) in applying paragraph (1) to such credits—

''(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 specified energy credits).

''(B) SPECIFIED ENERGY CREDITS.—For purposes of this subsection, the term 'specified energy credits' means the credits determined under sections 45G, 45H, 45I, and 45J. For taxable years beginning after December 31, 2003, such term includes the credit determined under section 40. For taxable years beginning after December 31, 2003, and before January 1, 2006, such term includes the credit determined under section 43.

''(C) SPECIAL RULE FOR ELECTRICITY PRODUCED FROM QUALIFIED FACILITIES.—For purposes of this subsection, the term 'specified energy credits' shall include the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

''(i) at a facility 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.—

(1) Paragraph (2)(A)(ii)(II) of section 38(c) is amended by striking ''or'' and inserting a comma and by inserting '', and the specified energy credits'' after ''employee credit''.

(2) Paragraph (3)(A)(ii)(II) of section 38(c) is amended by inserting ''and the specified energy credits'' after ''employee 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.

SEC. 1348. TEMPORARY REPEAL OF ALTERNATIVE MINIMUM TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS.

(a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to taxable years beginning after December 31, 2003, and before January 1, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

PART III—CLEAN COAL INCENTIVES

SEC. 1351. CREDIT FOR CLEAN COAL TECHNOLOGY UNITS.

(a) IN GENERAL.—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. CLEAN COAL TECHNOLOGY CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the clean coal technology credit for any taxable year is an amount equal to the applicable percentage of the basis of qualified clean coal property placed in service during such year.

''(b) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage is—

''(1) 15 percent in the case of property placed in service in connection with any basic clean coal technology unit, and

''(2) 17.5 percent in the case of property placed in service in connection with any advanced clean coal technology unit.

''(c) QUALIFIED CLEAN COAL PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified clean coal property' means section 1245 property—

''(A) which is installed in connection with—

''(i) an existing coal-based unit as part of the conversion of such unit to any basic or advanced clean coal technology unit, or

''(ii) any new advanced clean coal technology unit,

''(B) which is placed in service after December 31, 2003, and before—

''(i) in the case of property to which subsection (b)(1) applies, January 1, 2014, and

''(ii) in the case of property to which subsection (b)(2) applies, January 1, 2017 (January 1, 2013, in the case of property installed in connection with an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit),

''(C) the original use of which commences with the taxpayer, and

''(D) which has a useful life of not less than 4 years.

''(2) EXISTING COAL-BASED UNIT.—The term 'existing coal-based unit' means a coal-based electricity generating steam generator-turbine unit—

''(A) which is not a basic or advanced clean coal technology unit, and

''(B) which is in operation on or before January 1, 2004.

In the case of a unit being converted to a basic clean coal technology unit, such term shall not include a unit having a nameplate capacity rating of more than 300 megawatts.

''(3) NEW ADVANCED CLEAN COAL TECHNOLOGY UNIT.—The term 'new advanced clean coal technology unit' means any advanced clean coal technology unit which is placed in

service after December 31, 2003, and the original use of which commences with the taxpayer.

''(d) BASIC CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

''(1) IN GENERAL.—The term 'basic 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, and integrated gasification combined cycle) 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 the existing coal-based unit prior to its conversion,

''(D) has a maximum design net heat rate of not more than 9,500, and

''(E) meets the pollution control requirements of paragraph (2).

Such term shall not include an advanced clean coal technology unit.

''(2) 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 conversion 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 conversion of the unit.

''(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

''(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

''(ii) in the case of nitrogen oxide emissions—

''(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

''(II) 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.

''(3) 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:

''(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 existing coal-based 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.

''(4) HHV.—The term 'HHV' means higher heating value.

''(e) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

''(1) IN GENERAL.—The term 'advanced clean coal technology unit' means any electricity generating unit of the taxpayer—

''(A) which 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,

''(B) which uses an input of at least 75 percent coal to produce at least 50 percent of its thermal output as electricity, and

''(C) which 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 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 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—

''(A) which 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

''(B) 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—

''(A) which uses any other technology for the production of electricity, and

''(B) which has a design net heat rate which meets the requirement of paragraph (2).

''(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.

''(f) NATIONAL LIMITATIONS ON CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The amount of credit which would (but for this subsection) be allowed with respect to any property shall not exceed the amount which bears the same ratio to such amount of credit as—

''(A) the national megawatt capacity limitation allocated to the taxpayer with respect to the basic or advanced clean coal technology unit to which such property relates, bears to

''(B) the total megawatt capacity of such unit.

The capacity described in subparagraph (B) shall be the reasonably expected capacity after the installation of the property.

''(2) AMOUNT OF NATIONAL LIMITATION.—

''(A) ADVANCED UNITS.—The national megawatt capacity limitation for advanced clean coal technology units shall be 6,000 megawatts. Of such amount, the national megawatt capacity limitation is—

''(i) for advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,500 megawatts (not more than 750 megawatts in the case of units placed in service before 2009),

''(ii) for such units using pressurized fluidized bed combustion technology, not more than 750 megawatts (not more than 375 megawatts in the case of units placed in service before 2009),

''(iii) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 3,000 megawatts (not more than 1,250 megawatts in the case of units placed in service before 2009), and

''(iv) for such units using other technology for the production of electricity, not more than 750 megawatts (not more than 375 megawatts in the case of units placed in service before 2009).

''(B) BASIC UNITS.—The national megawatt capacity limitation for basic clean coal technology units shall be 4,000 megawatts.

''(3) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitations in such manner as the Secretary may prescribe, except that the Secretary may not allocate more than 300 megawatts to any basic clean coal technology unit.

''(4) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations shall provide a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitations—

''(A) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions, and environmental performance, be placed in service as soon as possible, and

''(B) to allocate capacity to taxpayers which have a definite and credible plan for placing into commercial operation a basic or advanced 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 which the Secretary determines are appropriate.

''(g) SPECIAL RULES.—For purposes of this section—

''(1) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(2) PROPERTY FINANCED BY SUBSIDIZED FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—Rules similar to the rules of section 45(b)(3) shall apply for purposes of this section.

''(3) NONCOMPLIANCE WITH POLLUTION LAWS.—The terms 'basic clean coal technology unit' and 'advanced clean coal technology unit' shall not include any unit which is not in compliance with the applicable Federal pollution prevention, control, and permit requirements at any time during the period applicable under subsection (c)(1)(B).

''(4) DENIAL OF CREDIT FOR UNITS RECEIVING CERTAIN OTHER FEDERAL ASSISTANCE.—The terms 'basic clean coal technology unit' and 'advanced clean coal technology unit' shall not include any unit if, at any time during the period applicable under subsection (c)(1)(B), any funding is provided to such unit under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy.

''(5) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47, the energy credit under section 48, or any credit under section 45 or 45K is allowable unless the taxpayer elects to waive the application of such credit to such property.''.

(b) SPECIAL RECAPTURE RULES.—

(1) Subsection (a) of section 50 is amended by redesignating paragraph (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR CLEAN COAL TECHNOLOGY CREDITS.—

''(A) EARLY DISPOSITION, ETC.—If, during any taxable year, qualified clean coal property is disposed of, or otherwise ceases to be part of a basic or advanced clean coal technology unit with respect to the taxpayer, before the close of the recovery period under section 168 for such unit, then the tax under this chapter for such taxable year shall be increased by—

''(i) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under section 48A with respect to such property, multiplied by

''(ii) a fraction—

''(I) the numerator of which is the number of years in the period beginning with the year of such disposition or cessation and ending with the last year of such recovery period, and

''(II) the denominator of which is the total number of years in such recovery period.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of this paragraph shall apply in cases where qualified progress expenditures were taken into account under the rules referred to in section 48A(g)(1).

''(C) INCREASED RECAPTURE IN CERTAIN CASES.—The fraction in subparagraph (A)(ii) shall be 1 in any case in which the property ceases to be a basic or advanced clean coal technology unit by reason of paragraph (3), (4), or (5) of section 48A(g).

''(D) COORDINATION WITH OTHER RECAPTURE RULES.—Paragraphs (1) and (2) shall not apply to qualified clean coal property.

''(E) DEFINITIONS.—Terms used in this section which are also used in section 48A shall have the meanings given to such terms in section 48A.''.

(2) Paragraph (4) of section 50(a), as redesignated by paragraph (1), is amended by striking ''or (2)'' and inserting '', (2), or (3)''.

(3) Paragraph (5) of section 50(a), as so redesignated, is amended by striking ''and (2)'' and inserting '', (2), and (3)''.

(4) Section 1371(d)(1) is amended by striking ''section 50(a)(4)'' and inserting ''section 50(a)(5)''.

(c) TECHNICAL AMENDMENTS.—

(1) 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 clean coal technology credit.''.

(2) 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 qualified clean coal property (as defined by section 48A(c)).''.

(3) 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. Clean coal technology credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2003, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1352. EXPANSION OF AMORTIZATION FOR CERTAIN POLLUTION CONTROL FACILITIES.

(a) ELIGIBILITY OF POST-1975 POLLUTION CONTROL FACILITIES.—

(1) IN GENERAL.—Paragraph (1) of section 169(d) is amended by striking ''before January 1, 1976,'' and by striking ''a new identifiable'' and inserting ''an identifiable''.

(2) IDENTIFIABLE TREATMENT FACILITY.—Paragraph (4) of section 169(d) is amended to read as follows:

''(4) IDENTIFIABLE TREATMENT FACILITY.—For purposes of paragraph (1), the term 'identifiable treatment facility' includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which is property—

''(A) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(B) the original use of the property commences with the taxpayer.''.

(3) TECHNICAL AMENDMENT.—Section 169(d)(3) is amended by striking ''Health, Education, and Welfare'' and inserting ''Health and Human Services''.

(b) COORDINATION WITH SECTION 48A INVESTMENT CREDIT.—Section 169 is amended by redesignating subsections (e) though (j) as subsection (f) through (k), respectively, and by inserting after subsection (d) the following new subsection:

''(e) COORDINATION WITH SECTION 48A INVESTMENT CREDIT.—

''(1) IN GENERAL.—In the case of any treatment facility used in connection with a plant or other property to which an amount is allocated under section 48A(f), this section shall apply only if such plant or other property was in operation before January 1, 1976.

''(2) 36-MONTH AMORTIZATION WITH RESPECT TO PRE-1976 PLANTS NOT ALLOCATED CREDIT.—References in this section to 60 months shall be treated as references to 36 months in the case of treatment facilities used in connection with a plant or other property in operation before January 1, 1976, if no allocation is made under section 48A(f) with respect to such plant or property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after the date of the enactment of this Act.

SEC. 1353. 5-YEAR RECOVERY PERIOD FOR ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT ELIGIBLE FOR CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) (defining 5-year property) is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any section 1245 property which is part of an eligible integrated gasification combined cycle technology unit (as defined in section 48A(e)(4)) for which an allocation is made under section 48A(f).''.

(b) 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 (B)(iii) the following new item:

''(B) (vii) ..... 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.

PART IV—HIGH VOLUME NATURAL GAS PROVISIONS

SEC. 1355. HIGH VOLUME NATURAL GAS PIPE 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 high volume natural gas pipe the original use of which commences with the taxpayer after the date of the enactment of this clause, and''.

(b) HIGH VOLUME NATURAL GAS PIPE.—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) HIGH VOLUME NATURAL GAS PIPE.—The term 'high volume natural gas pipe' means—

''(A) pipe which has an interior diameter of at least 42 inches and which is part of a natural gas pipeline system, and

''(B) any related equipment and appurtenances used in connection with such pipe.''.

(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) ..... 22''.

(d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1), as amended by this Act, is amended by inserting before the period the following: '', or in section 168(e)(3)(C)(iii)''.

(e) 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. 1356. EXTENSION OF ENHANCED OIL RECOVERY CREDIT TO HIGH VOLUME NATURAL GAS 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 in connection with the construction of a gas treatment plant which—

''(i) prepares natural gas for transportation through a pipeline with a capacity of at least 1,000,000,000,000 Btu of natural gas per day, and

''(ii) 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.

Subtitle D—Additional Provisions

SEC. 1361. EXTENSION OF ACCELERATED DEPRECIATION BENEFIT FOR ENERGY-RELATED BUSINESSES ON INDIAN RESERVATIONS.

Paragraph (8) of section 168(j) (relating to termination) is amended by adding at the end the following new sentence: ''The preceding sentence shall be applied by substituting ''December 31, 2005'' for ''December 31, 2004'' in the case of property placed in service as part of a facility for—

''(A) the generation or transmission of electricity (including from any qualified energy resource, as defined in section 45(c)),

''(B) an oil or gas well,

''(C) the transmission or refining of oil or gas, or

''(D) the production of any qualified fuel (as defined in section 45K(c)).''.

SEC. 1362. 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: ''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 ending after the date of the enactment of this Act.

SEC. 1363. DISTRIBUTIONS FROM PUBLICLY TRADED PARTNERSHIPS TREATED AS QUALIFYING INCOME OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraph (2) of section 851(b) (defining regulated investment company) is amended to read as follows:

''(2) at least 90 percent of its gross income is derived from—

''(A) dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies, and

''(B) distributions or other income derived from an interest in a qualified publicly traded partnership (as defined in subsection (h)); and''.

(b) SOURCE FLOW-THROUGH RULE NOT TO APPLY.—The last sentence of section 851(b) is amended by inserting ''(other than a qualified publicly traded partnership as defined in subsection (h))'' after ''derived from a partnership''.

(c) LIMITATION ON OWNERSHIP.—Subsection (c) of section 851 is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) The term 'outstanding voting securities of such issuer' shall include the equity securities of a qualified publicly traded partnership (as defined in subsection (h)).''.

(d) DEFINITION OF QUALIFIED PUBLICLY TRADED PARTNERSHIP.—Section 851 is amended by adding at the end the following new subsection:

''(h) QUALIFIED PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'qualified publicly traded partnership' means a publicly traded partnership described in section 7704(b) other than a partnership which would satisfy the gross income requirements of section 7704(c)(2) if qualifying income included only income described in subsection (b)(2)(A).''.

(e) DEFINITION OF QUALIFYING INCOME.—Section 7704(d)(4) is amended by striking ''section 851(b)(2)'' and inserting ''section 851(b)(2)(A)''.

(f) LIMITATION ON COMPOSITION OF ASSETS.—Subparagraph (B) of section 851(b)(3) is amended to read as follows:

''(B) not more than 25 percent of the value of its total assets is invested in—

''(i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer,

''(ii) the securities (other than the securities of other regulated investment companies) of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary, to be engaged in the same or similar trades or businesses or related trades or businesses, or

''(iii) the securities of one or more qualified publicly traded partnerships (as defined in subsection (h)).''.

(g) APPLICATION OF SPECIAL PASSIVE ACTIVITY RULE TO REGULATED INVESTMENT COMPANIES.—Subsection (k) of section 469 (relating to separate application of section in case of publicly traded partnerships) is amended by adding at the end the following new paragraph:

''(4) APPLICATION TO REGULATED INVESTMENT COMPANIES.—For purposes of this section, a regulated investment company (as defined in section 851) holding an interest in a qualified publicly traded partnership (as defined in section 851(h)) shall be treated as a taxpayer described in subsection (a)(2) with respect to items attributable to such interest.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1364. CEILING FANS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.84.14	Ceiling fans for permanent installation (provided for in subheading 8414.51.00)	Free	No change	No change	On or before 12/31/2005	''.

(b) EFFECTIVE DATE.—The amendment made by this section applies to goods entered, or withdrawn from warehouse, for consumption on or after the 15th day after the date of enactment of this Act.

SEC. 1365. CERTAIN STEAM GENERATORS, AND CERTAIN REACTOR VESSEL HEADS, USED IN NUCLEAR FACILITIES.

(a) CERTAIN STEAM GENERATORS.—Heading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking ''12/31/2006'' and inserting ''12/31/2008''.

(b) CERTAIN REACTOR VESSEL HEADS.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.84.03	Reactor vessel heads for nuclear reactors (provided for in subheading 8401.40.00)	Free	No change	No change	On or before 12/31/2007	''.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to goods entered, or withdrawn from warehouse, for consumption on or after the 15th day after the date of the enactment of this Act.

SEC. 1366. BROWNFIELDS DEMONSTRATION PROGRAM FOR QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to the definition of exempt facility bond) is amended by striking ''or'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', or'', and by inserting at the end the following new paragraph:

''(14) qualified green building and sustainable design projects.''.

(b) QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.—Section 142 (relating to exempt facility bonds) is amended by adding at the end thereof the following new subsection:

''(l) QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.—

''(1) IN GENERAL.—For purposes of subsection (a)(14), the term 'qualified green building and sustainable design project' means any project which is designated by the Secretary, after consultation with the Administrator of the Environmental Protection Agency, as a qualified green building and sustainable design project and which meets the requirements of clauses (i), (ii), (iii), and (iv) of paragraph (4)(A).

''(2) DESIGNATIONS.—

''(A) IN GENERAL.—Within 60 days after the end of the application period described in paragraph (3)(A), the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall designate qualified green building and sustainable design projects. At least one of the projects designated shall be located in, or within a 10-mile radius of, an empowerment zone as designated pursuant to section 1391, and at least one of the projects designated shall be located in a rural State. No more than one project shall be designated in a State. A project shall not be designated if

such project includes a stadium or arena for professional sports exhibitions or games.

''(B) MINIMUM CONSERVATION AND TECHNOLOGY INNOVATION OBJECTIVES.—The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall ensure that, in the aggregate, the projects designated shall—

''(i) reduce electric consumption by more than 150 megawatts annually as compared to conventional construction,

''(ii) reduce daily sulfur dioxide emissions by at least 10 tons compared to coal generation power,

''(iii) expand by 75 percent the domestic solar photovoltaic market in the United States (measured in megawatts) as compared to the expansion of that market from 2001 to 2002, and

''(iv) use at least 25 megawatts of fuel cell energy generation.

''(3) LIMITED DESIGNATIONS.—A project may not be designated under this subsection unless—

''(A) the project is nominated by a State or local government within 180 days of the enactment of this subsection, and

''(B) such State or local government provides written assurances that the project will satisfy the eligibility criteria described in paragraph (4).

''(4) APPLICATION.—

''(A) IN GENERAL.—A project may not be designated under this subsection unless the application for such designation includes a project proposal which describes the energy efficiency, renewable energy, and sustainable design features of the project and demonstrates that the project satisfies the following eligibility criteria:

''(i) GREEN BUILDING AND SUSTAINABLE DESIGN.—At least 75 percent of the square footage of commercial buildings which are part of the project is registered for United States Green Building Council's LEED certification and is reasonably expected (at the time of the designation) to receive such certification.

''(ii) BROWNFIELD REDEVELOPMENT.—The project includes a brownfield site as defined by section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), including a site described in subparagraph (D)(ii)(II)(aa) thereof.

''(iii) STATE AND LOCAL SUPPORT.—The project receives specific State or local government resources which will support the project in an amount equal to at least $5,000,000. For purposes of the preceding sentence, the term 'resources' includes tax abatement benefits and contributions in kind.

''(iv) SIZE.—The project includes at least one of the following:

''(I) At least 1,000,000 square feet of building.

''(II) At least 20 acres.

''(v) USE OF TAX BENEFIT.—The project proposal includes a description of the net benefit of the tax-exempt financing provided under this subsection which will be allocated for financing of one or more of the following:

''(I) The purchase, construction, integration, or other use of energy efficiency, renewable energy, and sustainable design features of the project.

''(II) Compliance with LEED certification standards.

''(III) The purchase, remediation, and foundation construction and preparation of the brownfields site.

''(vi) EMPLOYMENT.—The project is projected to provide permanent employment of at least 1,500 full time equivalents (150 full time equivalents in rural States) when completed and construction employment of at least 1,000 full time equivalents (100 full time equivalents in rural States).

The application shall include an independent analysis which describes the project's economic impact, including the amount of projected employment.

''(B) PROJECT DESCRIPTION.—Each application described in subparagraph (A) shall contain for each project a description of—

''(i) the amount of electric consumption reduced as compared to conventional construction,

''(ii) the amount of sulfur dioxide daily emissions reduced compared to coal generation,

''(iii) the amount of the gross installed capacity of the project's solar photovoltaic capacity measured in megawatts, and

''(iv) the amount, in megawatts, of the project's fuel cell energy generation.

''(5) CERTIFICATION OF USE OF TAX BENEFIT.—No later than 30 days after the completion of the project, each project must certify to the Secretary that the net benefit of the tax-exempt financing was used for the purposes described in paragraph (4).

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RURAL STATE.—The term 'rural State' means any State which has—

''(i) a population of less than 4,500,000 according to the 2000 census,

''(ii) a population density of less than 150 people per square mile according to the 2000 census, and

''(iii) increased in population by less than half the rate of the national increase between the 1990 and 2000 censuses.

''(B) LOCAL GOVERNMENT.—The term 'local government' has the meaning given such term by section 1393(a)(5).

''(C) NET BENEFIT OF TAX-EXEMPT FINANCING.—The term 'net benefit of tax-exempt financing' means the present value of the interest savings (determined by a calculation established by the Secretary) which result from the tax-exempt status of the bonds.

''(7) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

''(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(14) if the aggregate face amount of bonds issued by the State or local government pursuant thereto for a project (when added to the aggregate face amount of bonds previously so issued for such project) exceeds an amount designated by the Secretary as part of the designation.

''(B) LIMITATION ON AMOUNT OF BONDS.—The Secretary may not allocate authority to issue qualified green building and sustainable design project bonds in an aggregate face amount exceeding $2,000,000,000.

''(8) TERMINATION.—Subsection (a)(14) shall not apply with respect to any bond issued after September 30, 2009.

''(9) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (7)(B) and (8) shall not apply to any bond (or series of bonds) issued to refund a bond issued under subsection (a)(14) before October 1, 2009, if—

''(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

''(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A).''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking ''or (13)'' and inserting ''(13), or (14)'', and

(2) by striking ''and qualified public educational facilities'' and inserting ''qualified public educational facilities, and qualified green building and sustainable design projects''.

(d) SPECIAL RULE FOR ASSETS FINANCED UNDER THIS SECTION AND ACCOUNTABILITY.—

(1) DENIAL OF DOUBLE BENEFIT.—Any asset financed with bonds issued pursuant to this section shall be ineligible for any credit or deduction established under the Energy Tax Policy Act of 2004.

(2) ACCOUNTABILITY.—Each issuer shall maintain, on behalf of each project, an interest bearing reserve account equal to 1 percent of the net proceeds of any bond issued under this section for such project. Not later than 5 years after the date of issuance, the Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall determine whether the project financed with such bonds has substantially complied with the terms and conditions described in section 142(l)(4) of the Internal Revenue Code of 1986 (as added by this section). If the Secretary, after such consultation, certifies that the project has substantially complied with such terms and conditions and meets the commitments set forth in the application for such project described in section 142(l)(4) of such Code, amounts in the reserve account, including all interest, shall be released to the project. If the Secretary determines that the project has not substantially complied with such terms and conditions, amounts in the reserve account, including all interest, shall be paid to the United States Treasury.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issues after the date of the enactment of this Act.

TITLE XIV—MISCELLANEOUS

Subtitle A—Rural and Remote Electricity Construction

SEC. 1401. DENALI COMMISSION PROGRAMS.

(a) POWER COST EQUALIZATION PROGRAM.—There are authorized to be appropriated to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note) not more than $5,000,000 for each of fiscal years 2005 through 2011 for the purposes of funding the power cost equalization program established under section 42.45.100 of the Alaska Statutes.

(b) AVAILABILITY OF FUNDS.—

(1) PURPOSE.—Amounts described in paragraph (2) shall be available to the Denali Commission to permit energy generation and development (including fuel cells, hydroelectric, solar, wind, wave, and tidal energy, and alternative energy sources), energy transmission (including interties), fuel tank replacement and clean-up, fuel transportation networks and related facilities, power cost equalization programs, and other energy programs, notwithstanding any other provision of law.

(2) AMOUNTS.—(A) Except as provided in subparagraph (B), the amounts referred to in paragraph (1) shall be any Federal royalties, rents, and bonuses derived from the Federal share of Federal oil and gas leases in the National Petroleum Reserve in Alaska, up to a maximum of $50,000,000, for each of the fiscal years 2004 through 2013.

(B) If amounts available under subparagraph (A) for one of the fiscal years 2004 through 2013 are less than $50,000,000, the Secretary of Energy shall make available an amount sufficient to ensure that the amount

available under this subsection for that fiscal year equals $50,000,000, from amounts remaining after deposits are made under section 949(a)(1), from the same source from which those deposits are made.

SEC. 1402. RURAL AND REMOTE COMMUNITY ASSISTANCE.

(a) PROGRAM.—Section 19 of the Rural Electrification Act of 1936 (7 U.S.C 918a) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 19. ELECTRIC GENERATION, TRANSMISSION, AND DISTRIBUTION FACILITIES EFFICIENCY GRANTS AND LOANS TO RURAL AND REMOTE COMMUNITIES WITH EXTREMELY HIGH ELECTRICITY COSTS.

''(a) IN GENERAL.—The Secretary, acting through the Rural Utilities Service, may—

''(1) in coordination with State rural development initiatives, make grants and loans to persons, States, political subdivisions of States, and other entities organized under the laws of States, to acquire, construct, extend, upgrade, and otherwise improve electric generation, transmission, and distribution facilities serving communities in which the average revenue per kilowatt hour of electricity for all consumers is greater than 150 percent of the average revenue per kilowatt hour of electricity for all consumers in the United States (as determined by the Energy Information Administration using the most recent data available);

''(2) make grants and loans to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public 105–277) to be used for the purpose of providing funds to acquire, construct, extend, upgrade, finance, and otherwise improve electric generation, transmission, and distribution facilities serving communities described in paragraph (1); and

''(3) make grants to State entities to establish and support a revolving fund to provide a more cost-effective means of purchasing fuel in areas where the fuel cannot be shipped by means of surface transportation.''.

(b) DEFINITION OF PERSON.—Section 13 of the Rural Electrification Act of 1936 (7 U.S.C. 913) is amended by striking ''or association'' and inserting ''association, or Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act)''.

Subtitle B—Coastal Programs

SEC. 1411. ROYALTY PAYMENTS UNDER LEASES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) ROYALTY RELIEF.—

(1) IN GENERAL.—For purposes of providing compensation for lessees and a State for which amounts are authorized by section 6004(c) of the Oil Pollution Act of 1990 (Public Law 101–380), a lessee may withhold from payment any royalty due and owing to the United States under any leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) for offshore oil or gas production from a covered lease tract if, on or before the date that the payment is due and payable to the United States, the lessee makes a payment to the Secretary of the Interior of 44 cents for every $1 of royalty withheld.

(2) USE OF AMOUNTS PAID TO SECRETARY.—Within 30 days after the Secretary of the Interior receives payments under paragraph (1), the Secretary of the Interior shall—

(A) make 47.5 percent of such payments available to the State referred to in section 6004(c) of the Oil Pollution Act of 1990; and

(B) make 52.5 percent of such payments available equally, only for the programs and purposes identified as number 282 at page 1389 of House Report number 108–10 and for a program described at page 1159 of that Report in the State referred to in such section 6004(c).

(3) TREATMENT OF AMOUNTS.—Any royalty withheld by a lessee in accordance with this section (including any portion thereof that is paid to the Secretary of the Interior under paragraph (1)) shall be treated as paid for purposes of satisfaction of the royalty obligations of the lessee to the United States.

(4) CERTIFICATION OF WITHHELD AMOUNTS.—The Secretary of the Treasury shall—

(A) determine the amount of royalty withheld by a lessee under this section; and

(B) promptly publish a certification when the total amount of royalty withheld by the lessee under this section is equal to—

(i) the dollar amount stated at page 47 of Senate Report number 101–534, which is designated therein as the total drainage claim for the West Delta field; plus

(ii) interest as described at page 47 of that Report.

(b) PERIOD OF ROYALTY RELIEF.—Subsection (a) shall apply to royalty amounts that are due and payable in the period beginning on January 1, 2004, and ending on the date on which the Secretary of the Treasury publishes a certification under subsection (a)(4)(B).

(c) DEFINITIONS.—As used in this section:

(1) COVERED LEASE TRACT.—The term ''covered lease tract'' means a leased tract (or portion of a leased tract)—

(A) lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)); or

(B) lying within such zone but to which such section does not apply.

(2) LESSEE.—The term ''lessee''—

(A) means a person or entity that, on the date of the enactment of the Oil Pollution Act of 1990, was a lessee referred to in section 6004(c) of that Act (as in effect on that date of the enactment), but did not hold lease rights in Federal offshore lease OCS–G–5669; and

(B) includes successors and affiliates of a person or entity described in subparagraph (A).

SEC. 1412. DOMESTIC OFFSHORE ENERGY REINVESTMENT.

(a) DOMESTIC OFFSHORE ENERGY REINVESTMENT PROGRAM.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

"SEC. 32. DOMESTIC OFFSHORE ENERGY REINVESTMENT PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) APPROVED PLAN.—The term 'approved plan' means a Secure Energy Reinvestment Plan approved by the Secretary under this section.

''(2) COASTAL ENERGY STATE.—The term 'Coastal Energy State' means a Coastal State off the coastline of which, within the seaward lateral boundary as determined by the map referenced in subsection (c)(2)(A), outer Continental Shelf bonus bids or royalties are generated, other than bonus bids or royalties from a leased tract within any area of the outer Continental Shelf for which a moratorium on new leasing was in effect as of January 1, 2002, unless the lease was issued before the establishment of the moratorium and was in production on such date.

''(3) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a county, parish, or other equivalent subdivision of a Coastal Energy State, all or part of which lies within the boundaries of the coastal zone of the State, as identified in the State's approved coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) on the date of the enactment of this section.

''(4) COASTAL POPULATION.—The term 'coastal population' means the population of a coastal political subdivision, as determined by the most recent official data of the Census Bureau.

''(5) COASTLINE.—The term 'coastline' has the same meaning as the term 'coast line' in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

''(6) FUND.—The term 'Fund' means the Secure Energy Reinvestment Fund established by this section.

''(7) LEASED TRACT.—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.

''(8) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—(A) Except as provided in subparagraph (B), the term 'qualified outer Continental Shelf revenues' means all amounts received by the United States on or after October 1, 2003, from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g), or lying within such zone but to which section 8(g) does not apply, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related interest.

''(B) 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 for which a moratorium on new leasing was in effect as of January 1, 2002, unless the lease was issued before the establishment of the moratorium and was in production on such date.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(b) SECURE ENERGY REINVESTMENT FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account which shall be known as the 'Secure Energy Reinvestment Fund'. The Fund shall consist of amounts deposited under paragraph (2), and such other amounts as may be appropriated to the Fund.

''(2) DEPOSITS.—For each fiscal year after fiscal year 2003, the Secretary of the Treasury shall deposit into the Fund the following:

''(A) Notwithstanding section 9, all qualified outer Continental Shelf revenues attributable to royalties received by the United States in the fiscal year that are in excess of the following amount:

''(i) $3,455,000,000 in the case of royalties received in fiscal year 2004.

''(ii) $3,726,000,000 in the case of royalties received in fiscal year 2005.

''(iii) $4,613,000,000 in the case of royalties received in fiscal year 2006.

''(iv) $5,226,000,000 in the case of royalties received in fiscal year 2007.

''(v) $5,841,000,000 in the case of royalties received in fiscal year 2008.

''(vi) $5,763,000,000 in the case of royalties received in fiscal year 2009.

''(vii) $6,276,000,000 in the case of royalties received in fiscal year 2010.

''(viii) $6,351,000,000 in the case of royalties received in fiscal year 2011.

''(ix) $6,551,000,000 in the case of royalties received in fiscal year 2012.

''(x) $5,120,000,000 in the case of royalties received in fiscal year 2013.

''(B) Notwithstanding section 9, all qualified outer Continental shelf revenues attributable to bonus bids received by the United States in each of the fiscal years 2004 through 2013 that are in excess of $1,000,000,000.

''(C) Notwithstanding section 9, in addition to amounts deposited under subparagraphs (A) and (B), $35,000,000 of amounts received by the United States each fiscal year as royalties for oil or gas production on the outer Continental Shelf, except that no amounts shall be deposited under this subparagraph before fiscal year 2004 or after fiscal year 2013.

''(D) All interest earned under paragraph (4).

''(E) All repayments under subsection (f).

''(3) REDUCTION IN DEPOSIT.—(A) For each fiscal year after fiscal year 2013 in which amounts received by the United States as royalties for oil or gas production on the outer Continental Shelf are less than the sum of the amounts described in subparagraph (B) (before the application of this subparagraph), the Secretary of the Treasury shall reduce each of the amounts described in subparagraph (B) proportionately.

''(B) The amounts referred to in subparagraph (A) are the following:

''(i) The amount required to be covered into the Historic Preservation Fund under section 108 of the National Historic Preservation Act (16 U.S.C. 470h) on the date of the enactment of this paragraph.

''(ii) The amount required to be credited to the Land and Water Conservation Fund under section 2(c)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5(c)(2)) on the date of the enactment of this paragraph.

''(iii) The amount required to be deposited under subparagraph (C) of paragraph (2) of this subsection.

''(4) INVESTMENT.—The Secretary of the Treasury shall invest moneys in the Fund (including interest) in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Such invested moneys shall remain invested until needed to meet requirements for disbursement under this section.

''(5) REVIEW AND REVISION OF BASELINE AMOUNTS.—Not later than December 31, 2008, the Secretary of the Interior, in consultation with the Secretary of the Treasury, shall—

''(A) determine the amount and composition of outer Continental Shelf revenues that were received by the United States in each of the fiscal years 2004 through 2008;

''(B) project the amount and composition of outer Continental Shelf revenues that will be received in the United States in each of the fiscal years 2009 through 2013; and

''(C) submit to the Congress a report regarding whether any of the dollar amounts set forth in clauses (v) though (x) of paragraph (2)(A) or paragraph (2)(B) should be modified to reflect those projections.

''(6) AUTHORIZATION OF APPROPRIATION OF ADDITIONAL AMOUNTS.—In addition to the amounts deposited into the Fund under paragraph (2) there are authorized to be appropriated to the Fund—

''(A) for each of fiscal years 2004 through 2013 up to $500,000,000; and

''(B) for each fiscal year after fiscal year 2013 up to 25 percent of qualified outer Continental Shelf revenues received by the United States in the preceding fiscal year.

''(c) USE OF SECURE ENERGY REINVESTMENT FUND.—

''(1) IN GENERAL.—(A) The Secretary shall use amounts in the Fund remaining after the application of subsections (h) and (i) to pay to each Coastal Energy State that has a Secure Energy Reinvestment Plan approved by the Secretary under this section, and to coastal political subdivisions of such State, the amount allocated to the State or coastal political subdivision, respectively, under this subsection.

''(B) The Secretary shall make payments under this paragraph in December of 2004, and of each year thereafter, from revenues received by the United States in the immediately preceding fiscal year.

''(2) ALLOCATION.—The Secretary shall allocate amounts deposited into the Fund in a fiscal year, and other amounts determined by the Secretary to be available, among Coastal Energy States that have an approved plan, and to coastal political subdivisions of such States, as follows:

''(A)(i) Of the amounts made available for each of the first 10 fiscal years for which amounts are available for allocation under this paragraph, the allocation for each Coastal Energy State shall be calculated based on the ratio of qualified outer Continental Shelf revenues generated off the coastline of the Coastal Energy State to the qualified outer Continental Shelf revenues generated off the coastlines of all Coastal Energy States for the period beginning January 1, 1992, and ending December 31, 2001.

''(ii) Of the amounts available for a fiscal year in a subsequent 10-fiscal-year period, the allocation for each Coastal Energy State shall be calculated based on such ratio determined by the Secretary with respect to qualified outer Continental Shelf revenues generated in each subsequent corresponding 10-year period.

''(iii) For purposes of this subparagraph, qualified outer Continental Shelf revenues shall be considered to be generated off the coastline of a Coastal Energy State if the geographic center of the lease tract from which the revenues are generated is located within the area formed by the extension of the State's seaward lateral boundaries, calculated using the strict and scientifically derived conventions established to delimit international lateral boundaries under the Law of the Sea, as indicated on the map entitled 'Calculated Seaward Lateral Boundaries' and dated October 2003, on file in the Office of the Director, Minerals Management Service.

''(B) 35 percent of each Coastal Energy State's allocable share as determined under subparagraph (A) shall be allocated among and paid directly to the coastal political subdivisions of the State by the Secretary based on the following formula:

''(i) 25 percent shall be allocated based on the ratio of each coastal political subdivision's coastal population to the coastal population of all coastal political subdivisions of the Coastal Energy State.

''(ii) 25 percent shall be allocated based on the ratio of each coastal political subdivision's coastline miles to the coastline miles of all coastal political subdivisions of the State. In the case of a coastal political subdivision without a coastline, the coastline of the political subdivision for purposes of this clause shall be one-third the average length of the coastline of the other coastal political subdivisions of the State.

''(iii) 50 percent shall be allocated based on a formula that allocates 75 percent of the funds based on such coastal political subdivision's relative distance from any leased tract used to calculate that State's allocation and 25 percent of the funds based on the relative level of outer Continental Shelf oil and gas activities in a coastal political subdivision to the level of outer Continental Shelf oil and gas activities in all coastal political subdivisions in such State, as determined by the Secretary, except that in the case of a coastal political subdivision in the State of California that has a coastal shoreline, that is not within 200 miles of the geographic center of a leased tract or portion of a leased tract, and in which there is located one or more oil refineries the allocation under this clause shall be determined as if that coastal political subdivision were located within a distance of 50 miles from the geographic center of the closest leased tract with qualified outer Continental Shelf revenues.

''(3) REALLOCATION.—Any amount allocated to a Coastal Energy State or coastal political subdivision of such a State but not disbursed because of a failure of a Coastal Energy State to have an approved plan shall be reallocated by the Secretary among all other Coastal Energy States in a manner consistent with this subsection, except that the Secretary—

''(A) shall hold the amount in escrow within the Fund until the earlier of the end of the next fiscal year in which the allocation is made or the final resolution of any appeal regarding the disapproval of a plan submitted by the State under this section; and

''(B) shall continue to hold such amount in escrow until the end of the subsequent fiscal year thereafter, if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Secure Energy Reinvestment Plan under subsection (d).

''(4) MINIMUM SHARE.—Notwithstanding any other provision of this subsection, the amount allocated under this subsection to each Coastal Energy State each fiscal year shall be not less than 5 percent of the total amount available for that fiscal year for allocation under this subsection to Coastal Energy States, except that for any Coastal Energy State determined by the Secretary to have an area formed by the extension of the State's seaward lateral boundary, as designated by the map referenced in paragraph (2)(A)(iii), of less than 490 square statute miles, the amount allocated to such State shall not be less than 10 percent of the total amount available for that fiscal year for allocation under this subsection.

''(5) RECOMPUTATION.—If the allocation to one or more Coastal Energy States under paragraph (4) with respect to a fiscal year is greater than the amount that would be allocated to such States under this subsection if paragraph (4) did not apply, then the allocations under this subsection to all other Coastal Energy States shall be paid from the amount remaining after deduction of the amounts allocated under paragraph (4), but shall be reduced on a pro rata basis by the sum of the allocations under paragraph (4) so that not more than 100 percent of the funds available in the Fund for allocation with respect to that fiscal year is allocated.

''(d) SECURE ENERGY REINVESTMENT PLAN.—

''(1) DEVELOPMENT AND SUBMISSION OF STATE PLANS.—The Governor of each State seeking to receive funds under this section shall prepare, and submit to the Secretary, a Secure Energy Reinvestment Plan describing planned expenditures of funds received under this section. The Governor shall include in the State plan submitted to the Secretary plans prepared by the coastal political subdivisions of the State. The Governor and the coastal political subdivision shall solicit local input and provide for public participation in the development of the State plan. In describing the planned expenditures, the State and coastal political subdivisions shall include only items that are uses authorized under subsection (e).

''(2) APPROVAL OR DISAPPROVAL.—

''(A) IN GENERAL.—The Secretary may not disburse funds to a State or coastal political subdivision of a State under this section before the date the State has an approved plan. The Secretary shall approve a Secure Energy Reinvestment Plan submitted by a State under paragraph (1) if the Secretary determines that the expenditures provided for in the plan are uses authorized under subsection (e), and that the plan contains each of the following:

''(i) 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.

''(ii) A program for the implementation of the plan, that (I) has as a goal improving the environment, (II) has as a goal addressing the impacts of oil and gas production from the outer Continental Shelf, and (III) includes a description of how the State and coastal political subdivisions of the State will evaluate the effectiveness of the plan.

''(iii) Certification by the Governor that ample opportunity has been accorded for public participation in the development and revision of the plan.

''(iv) Measures for taking into account other relevant Federal resources and programs. The plan shall be correlated so far as practicable with other State, regional, and local plans.

''(v) For any State for which the ratio determined under subsection (c)(2)(A)(i) or (c)(2)(A)(ii), as appropriate, expressed as a percentage, exceeds 25 percent, a plan to spend not less than 30 percent of the total funds provided under this section each fiscal year to that State and appropriate coastal political subdivisions, to address the socioeconomic or environmental impacts identified in the plan that remain significant or progressive after implementation of mitigation measures identified in the most current environmental impact statement (as of the date of the enactment of this clause) required under the National Environmental Protection Act of 1969 for lease sales under this Act.

''(vi) A plan to utilize at least one-half of the funds provided pursuant to subsection (c)(2)(B), and a portion of other funds provided to such State under this section, on programs or projects that are coordinated and conducted in partnership between the State and coastal political subdivision.

''(B) PROCEDURE AND TIMING.—The Secretary shall approve or disapprove each plan submitted in accordance with this subsection within 90 days after its submission.

''(3) AMENDMENT OR REVISION.—Any amendment to or revision of an approved plan shall be prepared and submitted in accordance with the requirements under this paragraph for the submittal of plans, and shall be approved or disapproved by the Secretary in accordance with paragraph (2)(B).

''(e) AUTHORIZED USES.—A Coastal Energy State, and a coastal political subdivision of such a State, shall use amounts paid under this section (including any such amounts deposited into a trust fund administered by the State or coastal political subdivision dedicated to uses consistent with this subsection), in compliance with Federal and State law and the approved plan of the State, only for one or more of the following purposes:

''(1) Projects and activities, including educational activities, for the conservation, protection, or restoration of coastal areas including wetlands.

''(2) Mitigating damage to, or the protection of, fish, wildlife, or natural resources.

''(3) To the extent of such sums as are considered reasonable by the Secretary, planning assistance and administrative costs of complying with this section.

''(4) Implementation of federally approved plans or programs for marine, coastal, subsidence, or conservation management or for protection of resources from natural disasters.

''(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 an expenditure of an amount made by a Coastal Energy State or coastal political subdivision is not in accordance with the approved plan of the State (including the plans of coastal political subdivisions included in such plan), the Secretary shall not disburse any further amounts under this section to that Coastal Energy State or coastal political subdivision until—

''(1) the amount is repaid to the Secretary; or

''(2) the Secretary approves an amendment to the plan that authorizes the expenditure.

''(g) ARBITRATION OF STATE AND LOCAL DISPUTES.—The Secretary may require, as a condition of any payment under this section, that a State or coastal political subdivision in a State must submit to arbitration—

''(1) any dispute between the State or coastal political subdivision (or both) and the Secretary regarding implementation of this section; and

''(2) any dispute between the State and political subdivision regarding implementation of this section, including any failure to include, in the plan submitted by the State for purposes of subsection (d), any spending plan of the coastal political subdivision.

''(h) ADMINISTRATIVE EXPENSES.—Of amounts in the Fund each fiscal year, the Secretary may use up to one-half of one percent for the administrative costs of implementing this section.

''(i) FUNDING FOR CONSORTIUM.—

''(1) IN GENERAL.—Of amounts deposited into the Fund in each fiscal year 2004 through 2013, 2 percent shall be available to the Secretary of the Interior to provide funding for the Coastal Restoration and Enhancement through Science and Technology program.

''(2) TREATMENT.—Any amount available under this subsection for a fiscal year shall, for purposes of determining the amount appropriated under any other provision of law that authorizes appropriations to carry out the program referred to in paragraph (1), be treated as appropriated under that other provision.

''(j) DISPOSITION OF FUNDS.—A Coastal Energy State or coastal political subdivision may use funds provided to such entity under this section, subject to subsection (e), for any payment that is eligible to be made with funds provided to States under section 35 of the Mineral Leasing Act (30 U.S.C. 191).

''(k) REPORTS.—Each fiscal year following a fiscal year in which a Coastal Energy State or coastal political subdivision of a Coastal Energy State receives funds under this section, the Governor of the Coastal Energy State, in coordination with such State's coastal political subdivisions, shall account for all funds so received for the previous fiscal year in a written report to the Secretary. The report shall include, in accordance with regulations prescribed by the Secretary, a description of all projects and activities that received such funds. In order to avoid duplication, such report may incorporate, by reference, any other reports required to be submitted under other provisions of law.

''(l) SIGNS.—The Secretary shall require, as a condition of any allocation of funds provided with amounts made available by this section, that each State and coastal political subdivision shall include on any sign otherwise installed at any site at or near an entrance or public use focal point area for which such funds are used, a statement that the existence or development of the site (or both), as appropriate, is a product of such funds.''.

(b) ADDITIONAL AMENDMENTS.—Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended—

(1) by striking subsection (a);

(2) in subsection (c) by striking ''For fiscal year 2001, $150,000,000 is'' and inserting ''Such sums as may be necessary to carry out this section are'';

(3) in subsection (d)(1)(B) by striking '', except'' and all that follows through the end of the sentence and inserting a period;

(4) by redesignating subsections (b) though (g) in order as subsection (a) through (f); and

(5) by striking ''subsection (f)'' each place it appears and inserting ''subsection (e)''.

(c) UTILIZATION OF COASTAL RESTORATION AND ENHANCEMENT THROUGH SCIENCE AND TECHNOLOGY PROGRAM.—

(1) AUTHORIZATION.—The Secretary of the Interior and the Secretary of Commerce may each use the Coastal Restoration and Enhancement through Science and Technology program for the purposes of—

(A) assessing the effects of coastal habitat restoration techniques;

(B) developing improved ecosystem modeling capabilities for improved predictions of coastal conditions and habitat change and for developing new technologies for restoration activities; and

(C) identifying economic options to address socioeconomic consequences of coastal degradation.

(2) CONDITION.—The Secretary of the Interior, in consultation with the Secretary of Commerce, shall ensure that the program—

(A) establishes procedures designed to avoid duplicative activities among Federal agencies and entities receiving Federal funds;

(B) coordinates with persons involved in similar activities; and

(C) establishes a mechanism to collect, organize, and make available information and findings on coastal restoration.

(3) REPORT.—Not later than September 30, 2008, the Secretary of the Interior, in consultation with the Secretary of Commerce, shall transmit a report to the Congress on the effectiveness of any Federal and State restoration efforts conducted pursuant to this subsection and make recommendations to improve coordinated coastal restoration efforts.

(4) FUNDING.—For each of fiscal years 2004 through 2013, there is authorized to be appropriated to the Secretary $10,000,000 to carry out activities under this subsection.

Subtitle C—Reforms to the Board of Directors of the Tennessee Valley Authority

SEC. 1431. CHANGE IN COMPOSITION, OPERATION, AND DUTIES OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY.

The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended by striking section 2 and inserting the following:

''SEC. 2. MEMBERSHIP, OPERATION, AND DUTIES OF THE BOARD OF DIRECTORS.

''(a) MEMBERSHIP.—

''(1) APPOINTMENT.—The Board of Directors of the Corporation (referred to in this Act as the 'Board') shall be composed of 9 members appointed by the President by and with the advice and consent of the Senate, at least 5 of whom shall be a legal resident of a State any part of which is in the service area of the Corporation.

''(2) CHAIRMAN.—The members of the Board shall select 1 of the members to act as chairman of the Board.

''(b) QUALIFICATIONS.—To be eligible to be appointed as a member of the Board, an individual—

''(1) shall be a citizen of the United States;

''(2) shall have management expertise relative to a large for-profit or nonprofit corporate, government, or academic structure;

''(3) shall not be an employee of the Corporation; and

''(4) shall make full disclosure to Congress of any investment or other financial interest that the individual holds in the energy industry.

''(c) RECOMMENDATIONS.—In appointing members of the Board, the President shall—

''(1) consider recommendations from such public officials as—

''(A) the Governors of States in the service area;

''(B) individual citizens;

''(C) business, industrial, labor, electric power distribution, environmental, civic, and service organizations; and

''(D) the congressional delegations of the States in the service area; and

''(2) seek qualified members from among persons who reflect the diversity, including the geographical diversity, and needs of the service area of the Corporation.

''(d) TERMS.—

''(1) IN GENERAL.—A member of the Board shall serve a term of 5 years. A member of the Board whose term has expired may continue to serve after the member's term has expired until the date on which a successor takes office, except that the member shall not serve beyond the end of the session of Congress in which the term of the member expires.

''(2) VACANCIES.—A member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of that term.

''(e) QUORUM.—

''(1) IN GENERAL.—Five of the members of the Board shall constitute a quorum for the transaction of business.

''(2) VACANCIES.—A vacancy on the Board shall not impair the power of the Board to act.

''(f) COMPENSATION.—

''(1) IN GENERAL.—A member of the Board shall be entitled to receive—

''(A) a stipend of—

''(i) $45,000 per year; or

''(ii)(I) in the case of the chairman of any committee of the Board created by the Board, $46,000 per year; or

''(II) in the case of the chairman of the Board, $50,000 per year; and

''(B) travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

''(2) ADJUSTMENTS IN STIPENDS.—The amount of the stipend under paragraph (1)(A)(i) shall be adjusted by the same percentage, at the same time and manner, and subject to the same limitations as are applicable to adjustments under section 5318 of title 5, United States Code.

''(g) DUTIES.—

''(1) IN GENERAL.—The Board shall—

''(A) establish the broad goals, objectives, and policies of the Corporation that are appropriate to carry out this Act;

''(B) develop long-range plans to guide the Corporation in achieving the goals, objectives, and policies of the Corporation and provide assistance to the chief executive officer to achieve those goals, objectives, and policies;

''(C) ensure that those goals, objectives, and policies are achieved;

''(D) approve an annual budget for the Corporation;

''(E) adopt and submit to Congress a conflict-of-interest policy applicable to members of the Board and employees of the Corporation;

''(F) establish a compensation plan for employees of the Corporation in accordance with subsection (i);

''(G) approve all compensation (including salary or any other pay, bonuses, benefits, incentives, and any other form of remuneration) of all managers and technical personnel that report directly to the chief executive officer (including any adjustment to compensation);

''(H) ensure that all activities of the Corporation are carried out in compliance with applicable law;

''(I) create an audit committee, composed solely of Board members independent of the management of the Corporation, which shall—

''(i) in consultation with the inspector general of the Corporation, recommend to the Board an external auditor;

''(ii) receive and review reports from the external auditor of the Corporation and inspector general of the Corporation; and

''(iii) make such recommendations to the Board as the audit committee considers necessary;

''(J) create such other committees of Board members as the Board considers to be appropriate;

''(K) conduct such public hearings as it deems appropriate on issues that could have a substantial effect on—

''(i) the electric ratepayers in the service area; or

''(ii) the economic, environmental, social, or physical well-being of the people of the service area;

''(L) establish the electricity rates charged by the Corporation; and

''(M) engage the services of an external auditor for the Corporation.

''(2) MEETINGS.—The Board shall meet at least 4 times each year.

''(h) CHIEF EXECUTIVE OFFICER.—

''(1) APPOINTMENT.—The Board shall appoint a person to serve as chief executive officer of the Corporation.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—To serve as chief executive officer of the Corporation, a person—

''(i) shall have senior executive-level management experience in large, complex organizations;

''(ii) shall not be a current member of the Board or have served as a member of the Board within 2 years before being appointed chief executive officer; and

''(iii) shall comply with the conflict-of-interest policy adopted by the Board.

''(B) EXPERTISE.—In appointing a chief executive officer, the Board shall give particular consideration to appointing an individual with expertise in the electric industry and with strong financial skills.

''(3) TENURE.—The chief executive officer shall serve at the pleasure of the Board.

''(i) COMPENSATION PLAN.—

''(1) IN GENERAL.—The Board shall approve a compensation plan that specifies all compensation (including salary or any other pay, bonuses, benefits, incentives, and any other form of remuneration) for the chief executive officer and employees of the Corporation.

''(2) ANNUAL SURVEY.—The compensation plan shall be based on an annual survey of the prevailing compensation for similar positions in private industry, including engineering and electric utility companies, publicly owned electric utilities, and Federal, State, and local governments.

''(3) CONSIDERATIONS.—The compensation plan shall provide that education, experience, level of responsibility, geographic differences, and retention and recruitment needs will be taken into account in determining compensation of employees.

''(4) POSITIONS AT OR BELOW LEVEL IV.—The chief executive officer shall determine the salary and benefits of employees whose annual salary is not greater than the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(5) POSITIONS ABOVE LEVEL IV.—On the recommendation of the chief executive officer, the Board shall approve the salaries of employees whose annual salaries would be in excess of the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

SEC. 1432. CHANGE IN MANNER OF APPOINTMENT OF STAFF.

Section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

''(a) APPOINTMENT BY THE CHIEF EXECUTIVE OFFICER.—The chief executive officer shall appoint, with the advice and consent of the Board, and without regard to the provisions of the civil service laws applicable to officers and employees of the United States, such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of the business of the Corporation.''; and

(2) by striking ''All contracts'' and inserting the following:

''(b) WAGE RATES.—All contracts''.

SEC. 1433. CONFORMING AMENDMENTS.

(a) The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended—

(1) by striking ''board of directors'' each place it appears and inserting ''Board of Directors''; and

(2) by striking ''board'' each place it appears and inserting ''Board''.

(b) Section 9 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h) is amended—

(1) by striking ''The Comptroller General of the United States shall audit'' and inserting the following:

''(c) AUDITS.—The Comptroller General of the United States shall audit''; and

(2) by striking ''The Corporation shall determine'' and inserting the following:

''(d) ADMINISTRATIVE ACCOUNTS AND BUSINESS DOCUMENTS.—The Corporation shall determine''.

(c) Title 5, United States Code, is amended—

(1) in section 5314, by striking ''Chairman, Board of Directors of the Tennessee Valley Authority.''; and

(2) in section 5315, by striking ''Members, Board of Directors of the Tennessee Valley Authority.''.

SEC. 1434. APPOINTMENTS; EFFECTIVE DATE; TRANSITION.

(a) APPOINTMENTS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the President shall submit to the Senate nominations of 6 persons to serve as members of the Board of Directors of the Tennessee Valley Authority in addition to the members serving on the date of enactment of this Act.

(2) INITIAL TERMS.—Notwithstanding section 2(d) of the Tennessee Valley Authority Act of 1933 (as amended by this subtitle), in making the appointments under paragraph (1), the President shall appoint—

(A) 2 members for a term to expire on May 18, 2006;

(B) 2 members for a term to expire on May 18, 2008; and

(C) 2 members for a term to expire on May 18, 2010.

(b) EFFECTIVE DATE.—The amendments made by this section and sections 1431, 1432, and 1433 take effect on the later of the date on which at least 3 persons nominated under subsection (a) take office or May 18, 2005.

(c) SELECTION OF CHAIRMAN.—The Board of Directors of the Tennessee Valley Authority shall select 1 of the members to act as chairman of the Board not later than 30 days after the effective date of this section.

(d) CONFLICT-OF-INTEREST POLICY.—The Board of Directors of the Tennessee Valley

Authority shall adopt and submit to Congress a conflict-of-interest policy, as required by section 2(g)(1)(E) of the Tennessee Valley Authority Act of 1933 (as amended by this subtitle), as soon as practicable after the effective date of this section.

(e) TRANSITION.—A person who is serving as a member of the board of directors of the Tennessee Valley Authority on the date of enactment of this Act—

(1) shall continue to serve until the end of the current term of the member; but

(2) after the effective date specified in subsection (b), shall serve under the terms of the Tennessee Valley Authority Act of 1933 (as amended by this subtitle); and

(3) may not be reappointed.

Subtitle D—Other Provisions

SEC. 1441. CONTINUATION OF TRANSMISSION SECURITY ORDER.

Department of Energy Order No. 202–03–2, issued by the Secretary of Energy on August 28, 2003, shall remain in effect unless rescinded by Federal statute.

SEC. 1442. REVIEW OF AGENCY DETERMINATIONS.

Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end the following:

''(i)(1) The United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any order or action of any Federal or State administrative agency or officer to issue, condition, or deny any permit, license, concurrence, or approval issued under authority of any Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), required for the construction of a natural gas pipeline for which a certificate of public convenience and necessity is issued by the Commission under this section;

''(B) alleging unreasonable delay by any Federal or State administrative agency or officer in entering an order or taking other action described in subparagraph (A); or

''(C) challenging any decision made or action taken under this subsection.

''(2)(A) If the Court finds that the order, action, or failure to act is not consistent with the public convenience and necessity (as determined by the Commission under this section), or would prevent the construction and operation of natural gas facilities authorized by the certificate of public convenience and necessity, the permit, license, concurrence, or approval that is the subject of the order, action, or failure to act shall be deemed to have been issued subject to any conditions set forth in the reviewed order or action that the Court finds to be consistent with the public convenience and necessity.

''(B) For purposes of paragraph (1)(B), the failure of an agency or officer to issue any such permit, license, concurrence, or approval within the latter of 1 year after the date of filing of an application for the permit, license, concurrence, or approval or 60 days after the date of issuance of the certificate of public convenience and necessity under this section, shall be considered to be unreasonable delay unless the Court, for good cause shown, determines otherwise.

''(C) The Court shall set any action brought under paragraph (1) for expedited consideration.''.

SEC. 1443. ATTAINMENT DATES FOR DOWNWIND OZONE NONATTAINMENT AREAS.

Section 181 of the Clean Air Act (42 U.S.C.7511) is amended by adding the following new subsection at the end thereof:

''(d) EXTENDED ATTAINMENT DATE FOR CERTAIN DOWNWIND AREAS.—

''(1) DEFINITIONS.—(A) The term 'upwind area' means an area that—

''(i) significantly contributes to nonattainment in another area, hereinafter referred to as a 'downwind area'; and

''(ii) is either—

''(I) a nonattainment area with a later attainment date than the downwind area, or

''(II) an area in another State that the Administrator has found to be significantly contributing to nonattainment in the downwind area in violation of section 110(a)(2)(D) and for which the Administrator has established requirements through notice and comment rulemaking to eliminate the emissions causing such significant contribution.

''(B) The term 'current classification' means the classification of a downwind area under this section at the time of the determination under paragraph (2).

''(2) EXTENSION.—If the Administrator—

''(A) determines that any area is a downwind area with respect to a particular national ambient air quality standard for ozone; and

''(B) approves a plan revision for such area as provided in paragraph (3) prior to a reclassification under subsection (b)(2)(A),

the Administrator, in lieu of such reclassification, shall extend the attainment date for such downwind area for such standard in accordance with paragraph (5).

''(3) REQUIRED APPROVAL.—In order to extend the attainment date for a downwind area under this subsection, the Administrator must approve a revision of the applicable implementation plan for the downwind area for such standard that—

''(A) complies with all requirements of this Act applicable under the current classification of the downwind area, including any requirements applicable to the area under section 172(c) for such standard; and

''(B) includes any additional measures needed to demonstrate attainment by the extended attainment date provided under this subsection.

''(4) PRIOR RECLASSIFICATION DETERMINATION.—If, no more than 18 months prior to the date of enactment of this subsection, the Administrator made a reclassification determination under subsection (b)(2)(A) for any downwind area, and the Administrator approves the plan revision referred to in paragraph (3) for such area within 12 months after the date of enactment of this subsection, the reclassification shall be withdrawn and the attainment date extended in accordance with paragraph (5) upon such approval. The Administrator shall also withdraw a reclassification determination under subsection (b)(2)(A) made after the date of enactment of this subsection and extend the attainment date in accordance with paragraph (5) if the Administrator approves the plan revision referred to in paragraph (3) within 12 months of the date the reclassification determination under subsection (b)(2)(A) is issued. In such instances the 'current classification' used for evaluating the revision of the applicable implementation plan under paragraph (3) shall be the classification of the downwind area under this section immediately prior to such reclassification.

''(5) EXTENDED DATE.—The attainment date extended under this subsection shall provide for attainment of such national ambient air quality standard for ozone in the downwind area as expeditiously as practicable but no later than the date on which the last reductions in pollution transport necessary for attainment in the downwind area are required to be achieved by the upwind area or areas.''.

SEC. 1444. ENERGY PRODUCTION INCENTIVES.

(a) IN GENERAL.—A State may provide to any entity—

(1) a credit against any tax or fee owed to the State under a State law, or

(2) any other tax incentive,

determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or such incentive.

(b) ELIGIBLE ENTITIES.—Subsection (a) shall apply with respect to the production in the State of—

(1) electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology,

(2) electricity from a renewable source such as wind, solar, or biomass, or

(3) ethanol.

(c) EFFECT ON INTERSTATE COMMERCE.—Any action taken by a State in accordance with this section with respect to a tax or fee payable, or incentive applicable, for any period beginning after the date of the enactment of this Act shall—

(1) be considered to be a reasonable regulation of commerce; and

(2) not be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate, against interstate commerce.

SEC. 1445. USE OF GRANULAR MINE TAILINGS.

(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:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

''(a) MINE TAILINGS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

''(A) cement or concrete projects; and

''(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

''(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

''(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

''(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

''(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

''(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

''(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle F the following:

''Sec. 6006. Use of granular mine tailings.''.

TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—General Provisions

SEC. 1501. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this section:

''(A) ETHANOL.—(i) 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; and

''(VI) fibers.

''(ii) The term 'waste derived ethanol' means ethanol derived from—

''(I) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

''(II) 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 cellulosic biomass ethanol, waste derived ethanol, and biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)) and any blending components derived from renewable fuel (provided that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection).

''(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—Not later than 1 year after the enactment of this subsection, the Administrator shall promulgate regulations ensuring that motor vehicle fuel sold or dispensed to consumers in the contiguous United States, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewable fuel can be used, or impose any per-gallon obligation for the use of renewable fuel. If the Administrator does not promulgate such regulations, the applicable percentage referred to in paragraph (4), on a volume percentage of gasoline basis, shall be 2.2 in 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	3.1
2006	3.3
2007	3.5
2008	3.8
2009	4.1
2010	4.4
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) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) NON-CONTIGUOUS STATE OPT-IN.—Upon the petition of a non-contiguous State, the Administrator may allow the renewable fuel program established by subtitle A of title XV of the Energy Policy Act of 2003 to apply in such non-contiguous State at the same time or any time after the Administrator promulgates regulations under paragraph (2). The Administrator may promulgate or revise regulations under paragraph (2), establish applicable percentages under paragraph (4), provide for the generation of credits under paragraph (6), and take such other actions as may be necessary to allow for the application of the renewable fuels program in a non-contiguous State.

''(4) 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 that will be 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 the calendar years 2004 through 2011, based on the estimate provided under subparagraph (A), the Administrator 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 to 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 (11).

''(5) EQUIVALENCY.—For the purpose of paragraph (2), 1 gallon of either cellulosic biomass ethanol or waste derived ethanol—

''(A) shall be considered to be the equivalent of 1.5 gallon of renewable fuel; or

''(B) if the cellulostic biomass ethanol or waste derived ethanol is derived from agricultural residue or is an agricultural byproduct (as that term is used in section 919 of the Energy Policy Act of 2003), shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

''(6) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide 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). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided paragraph (11), the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(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) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance—

''(i) in the calendar year in which the credit was generated or the next calendar year; or

''(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (7).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewable fuel deficit provided that, in the calendar year following the year in which the renewable fuel deficit is created, such person shall achieve compliance with the renewable fuel requirement under paragraph (2), and shall generate or purchase additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

''(7) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of the calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(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 shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the 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 fuels necessary to meet the requirement of paragraph (2) has been used during one of the periods specified in subparagraph (D) of the calendar year;

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

''(iii) promulgating regulations or other requirements to impose a 35 percent or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2005 in a State which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(8) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that 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 requirement 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.

''(9) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days after the enactment of this subsection, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional, or State basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the enactment of this subsection, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This paragraph shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (8) or paragraph (10), pertaining to waivers.

''(10) ASSESSMENT AND WAIVER.—The Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall evaluate the requirement of paragraph (2) and determine, prior to January 1, 2007, and prior to January 1 of any subsequent year in which the applicable volume of renewable fuel is increased under paragraph (2)(B), whether the requirement of paragraph (2), including the applicable volume of renewable fuel contained in paragraph (2)(B) should remain in effect, in whole or in part, during 2007 or any year or years subsequent to 2007. In evaluating the requirement of paragraph (2) and in making any determination under this section, the Administrator shall consider the best available information and data collected by accepted methods or best available means regarding—

''(A) the capacity of renewable fuel producers to supply an adequate amount of renewable fuel at competitive prices to fulfill the requirement of paragraph (2);

''(B) the potential of the requirement of paragraph (2) to significantly raise the price of gasoline, food (excluding the net price impact on the requirement in paragraph (2) on commodities used in the production of ethanol), or heating oil for consumers in any significant area or region of the country above the price that would otherwise apply to such commodities in the absence of such requirement;

''(C) the potential of the requirement of paragraph (2) to interfere with the supply of fuel in any significant gasoline market or region of the country, including interference with the efficient operation of refiners, blenders, importers, wholesale suppliers, and retail vendors of gasoline, and other motor fuels; and

''(D) the potential of the requirement of paragraph (2) to cause or promote exceedances of Federal, State, or local air quality standards.

If the Administrator determines, by clear and convincing information, after public notice and the opportunity for comment, that the requirement of paragraph (2) would have significant and meaningful adverse impact on the supply of fuel and related infrastructure or on the economy, public health, or environment of any significant area or region of the country, the Administrator may waive, in whole or in part, the requirement of paragraph (2) in any one year for which the determination is made for that area or region of the country, except that any such waiver shall not have the effect of reducing the applicable volume of renewable fuel specified in paragraph (2)(B) with respect to any year for which the determination is made. In determining economic impact under this paragraph, the Administrator shall not consider the reduced revenues available from the Highway Trust Fund (section 9503 of the Internal Revenue Code of 1986) as a result of the use of ethanol.

''(11) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in paragraph (2)(B)(i). Not later than December 31, 2007, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(12) ETHANOL MARKET CONCENTRATION ANALYSIS.—

''(A) ANALYSIS.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, 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).''.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended as follows:

(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)''.

(2) In the first sentence of paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), and (o)''.

(c) SURVEY OF RENEWABLE FUEL MARKET.—

(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator of the Environmental Protection Agency (in consultation with the Secretary of Energy acting through the Administrator of the Energy Information Administration) shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as 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. The Administrator, to avoid duplicative requirements, shall rely, to the extent

practicable, on existing reporting and recordkeeping requirements and other information available to the Administrator including gasoline distribution patterns that include multistate use areas.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

SEC. 1502. FUELS SAFE HARBOR.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, no renewable fuel, as defined by section 211(o)(1) of the Clean Air Act, or methyl tertiary butyl ether (hereinafterin this section referred to as ''MTBE''), used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing such renewable fuel or MTBE, shall be deemed a defective product by virtue of the fact that it is, or contains, such a renewable fuel or MTBE, if it does not violate a control or prohibition imposed by the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the ''Administrator'') under section 211 of such Act, and the manufacturer is in compliance with all requests for information under subsection (b) of such section 211 of such Act. If the safe harbor provided by this section does not apply, the existence of a claim of defective product shall be determined under otherwise applicable law. Nothing in this subsection shall be construed to affect the liability of any person for environmental remediation costs, drinking water contamination, negligence for spills or other reasonably foreseeable events, public or private nuisance, trespass, breach of warranty, breach of contract, or any other liability other than liability based upon a claim of defective product.

(b) EFFECTIVE DATE.—This section shall be effective as of September 5, 2003, and shall apply with respect to all claims filed on or after that date.

SEC. 1503. FINDINGS AND MTBE TRANSITION ASSISTANCE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (hereinafter in this section referred to as ''MTBE'') has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygen standard, Congress was aware that significant use of MTBE would result from the adoption of that standard, and that the use of MTBE would likely be important to the cost-effective implementation of that program;

(4) Congress was aware that gasoline and its component additives can and do leak from storage tanks;

(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) having previously required oxygenates like MTBE for air quality purposes, Congress has—

(A) reconsidered the relative value of MTBE in gasoline;

(B) decided to establish a date certain for action by the Environmental Protection Agency to prohibit the use of MTBE in gasoline; and

(C) decided to provide for the elimination of the oxygenate requirement for reformulated gasoline and to provide for a renewable fuels content requirement for motor fuel; and

(7) 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; and

(B) for the purpose of mitigating any fuel supply problems that may result from the elimination of the oxygenate requirement for reformulated gasoline and from the decision to establish a date certain for action by the Environmental Protection Agency to prohibit the use of MTBE in gasoline.

(b) PURPOSES.—The purpose of this section is to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended by adding at the end the following:

''(5) 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 (hereinafter in this subsection referred to as 'MTBE') in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane, iso-octene, alkylates, or renewable fuels.

''(ii) DETERMINATION.—The Administrator, in consultation with the Secretary of Energy, may determine that transition assistance for the production of iso-octane, iso-octene, alkylates, or renewable fuels is inconsistent with the provisions of subparagraph (B) and, on that basis, may deny applications for grants authorized by this paragraph.

''(B) FURTHER GRANTS.—The Secretary of Energy, in consultation with the Administrator, may also further make grants to merchant producers of MTBE in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of such other fuel additives (unless the Administrator determines that such fuel additives may reasonably be anticipated to endanger public health or the environment) that, consistent with this subsection—

''(i) have been registered and have been tested or are being tested in accordance with the requirements of this section; and

''(ii) will contribute to replacing gasoline volumes lost as a result of amendments made to subsection (k) of this section by section 1504(a) and 1506 of the Energy Policy Act of 2003.

''(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 MTBE for consumption before April 1, 2003 and ceased production at any time after the date of enactment of this paragraph.

''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2005 through 2012, to remain available until expended.''.

(d) EFFECT ON STATE LAW.—The amendments made to the Clean Air Act by this title have no effect regarding any available authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 1504. USE OF MTBE.

(a) IN GENERAL.—Subject to subsections (e) and (f), not later than December 31, 2014, the use of methyl tertiary butyl ether (hereinafter in this section referred to as ''MTBE'') in motor vehicle fuel in any State other than a State described in subsection (c) is prohibited.

(b) REGULATIONS.—The Administrator of the Environmental Protection Agency (hereafter referred to in this section as the ''Administrator'') shall promulgate regulations to effect the prohibition in subsection (a).

(c) STATES THAT AUTHORIZE USE.—A State described in this subsection is a State in which the Governor of the State submits a notification to the Administrator authorizing the use of MTBE 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 subsection (c).

(e) TRACE QUANTITIES.—In carrying out subsection (a), the Administrator may allow trace quantities of MTBE, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

(f) LIMITATION.—The Administrator, under authority of subsection (a), shall not prohibit or control the production of MTBE for export from the United States or for any other use other than for use in motor vehicle fuel.

SEC. 1505. NATIONAL ACADEMY OF SCIENCES REVIEW AND PRESIDENTIAL DETERMINATION.

(a) NAS REVIEW.—Not later than May 31, 2013, the Secretary shall enter into an arrangement with the National Academy of Sciences to review the use of methyl tertiary butyl ether (hereafter referred to in this section as ''MTBE'') in fuel and fuel additives. The review shall only use the best available scientific information and data collected by accepted methods or the best available means. The review shall examine the use of MTBE in fuel and fuel additives, significant beneficial and detrimental effects of this use on environmental quality or public health or welfare including the costs and benefits of such effects, likely effects of controls or prohibitions on MTBE regarding fuel availability and price, and other appropriate and reasonable actions that are available to protect the environment or public health or welfare from any detrimental effects of the use of MTBE in fuel or fuel additives. The review shall be peer-reviewed prior to publication and all supporting data and analytical models shall be available to the public. The review shall be completed no later than May 31, 2014.

(b) PRESIDENTIAL DETERMINATION.—No later than June 30, 2014, the President may make a determination that restrictions on the use of MTBE to be implemented pursuant to section 1504 shall not take place and that the legal authority contained in section 1504 to prohibit the use of MTBE in motor vehicle fuel shall become null and void.

SEC. 1506. 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 as follows:

(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).

(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).

(II) by redesignating clause (iii) as clause (ii).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect 270 days after the date of enactment of this Act, except that such amendments shall take effect upon such date of enactment in any State that has received a waiver under section 209(b) of the Clean Air Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended as follows:

(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,''.

(2) By adding at the end the following:

''(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

''(i) DEFINITIONS.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

''(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph the Administrator shall establish, for each refinery or importer, standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

''(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery 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 refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for 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 refinery or importer shall meet the standards applicable under clause (ii) not later than April 1 of the year following the report in subclause (II) and for subsequent years.

''(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) 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.

(d) SAVINGS CLAUSE.—Nothing in this section is intended to affect or prejudice either any legal claims or actions with respect to regulations promulgated by the Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the ''Administrator'') prior to the date of enactment of this Act regarding emissions of toxic air pollutants from motor vehicles or the adjustment of standards applicable to a specific refinery or importer made under such prior regulations and the Administrator may apply such adjustments to the standards applicable to such refinery or importer under clause (iii)(I) of section 211(k)(1)(B) of the Clean Air Act, except that—

(1) the Administrator shall revise such adjustments to be based only on calendar years 1999–2000; and

(2) for adjustments based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline, the Administrator may revise such adjustments to take account of the scope of Federal or State prohibitions on the use of methyl tertiary butyl ether imposed after the date of the enactment of this paragraph, except that any such adjustment shall require such refiner or importer, to the greatest extent practicable, to maintain the reduction achieved during calendar years 1999–2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refinery or importer; *Provided*, that 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 1999–2000.

SEC. 1507. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (o) the following:

''(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this subsection, 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 subtitle A of title XV of the Energy Policy Act of 2003.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.''.

SEC. 1508. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m) RENEWABLE FUELS SURVEY.—(1) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including each of the following:

''(A) The quantity of renewable fuels produced.

''(B) The quantity of renewable fuels blended.

''(C) The quantity of renewable fuels imported.

''(D) The quantity of renewable fuels demanded.

''(E) Market price data.

''(F) Such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this section.

''(2) The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) through (F) of paragraph (1), for the 5 years prior to implementation of this subsection.

''(3) This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).''.

SEC. 1509. REDUCING THE PROLIFERATION OF STATE FUEL CONTROLS.

(a) EPA APPROVAL OF STATE PLANS WITH FUEL CONTROLS.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding at the end the following: ''The Administrator shall not approve a control or prohibition respecting the use of a

fuel or fuel additive under this subparagraph unless the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register a finding that, in the Administrator's judgment, such control or prohibition will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas.''.

(b) STUDY.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the ''Administrator''), in cooperation with the Secretary of Energy, shall undertake a study of the projected effects on air quality, the proliferation of fuel blends, fuel availability, and fuel costs of providing a preference for each of the following:

(A) Reformulated gasoline referred to in subsection (k) of section 211 of the Clean Air Act.

(B) A low RVP gasoline blend that has been certified by the Administrator as having a Reid Vapor Pressure of 7.0 pounds per square inch (psi).

(C) A low RVP gasoline blend that has been certified by the Administrator as having a Reid Vapor Pressure of 7.8 pounds per square inch (psi).

In carrying out such study, the Administrator shall obtain comments from affected parties. The Administrator shall submit the results of such study to the Congress not later than 18 months after the date of enactment of this Act, together with any recommended legislative changes.

SEC. 1510. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the ''Administrator'') 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 consumers in various States and localities;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while improving air quality at the national, regional and local levels consistent with the attainment of national ambient air quality standards, 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;

(F) the feasibility of providing incentives to promote cleaner burning motor vehicle fuel; and

(G) the extent to which improvements in air quality and any increases or decreases in the price of motor fuel can be projected to result from the Environmental Protection Agency's Tier II requirements for conventional gasoline and vehicle emission systems, the reformulated gasoline program, the renewable content requirements established by this subtitle, State programs regarding gasoline volatility, and any other requirements imposed by States or localities affecting the composition of motor fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2007, the Administrator 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 under this subsection 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 under this subsection, the Administrator and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 1511. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE AND CELLULOSIC BIOMASS LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy (hereinafter in this section referred to as 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 and cellulosic biomass into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) 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 subsection (b);

(2) 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

(3) 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.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal;

(B) the availability of sufficient quantities of cellulosic biomass; or

(C) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 1512. RESOURCE CENTER.

(a) DEFINITION.—In this section, the term ''RFG State'' means a State in which is located one or more covered areas (as defined in section 211(k)(10)(D) of the Clean Air Act (42 U.S.C. 7545(k)(10)(D)).

(b) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There are 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.

(c) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency 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.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2004 through 2008.

SEC. 1513. CELLULOSIC BIOMASS AND WASTE-DERIVED ETHANOL CONVERSION ASSISTANCE.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

''(r) CELLULOSIC BIOMASS AND WASTE-DERIVED ETHANOL CONVERSION ASSISTANCE.—

''(1) IN GENERAL.—The Secretary of Energy may provide grants to merchant producers of cellulosic biomass ethanol and waste-derived ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of 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 or waste-derived feedstocks derived from agricultural residues, municipal solid waste, or agricultural byproducts as that term is used in section 919 of the Energy Policy Act of 2003.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

''(A) $100,000,000 for fiscal year 2004.

''(B) $250,000,000 for fiscal year 2005.

''(C) $400,000,000 for fiscal year 2006.''.

SEC. 1514. BLENDING OF COMPLIANT REFORMULATED GASOLINES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

''(s) BLENDING OF COMPLIANT REFORMULATED GASOLINES.—

''(1) IN GENERAL.—Notwithstanding subsections (h) and (k) and subject to the limitations in paragraph (2) of this subsection, it shall not be a violation of this subtitle for a gasoline retailer, during any month of the year, to blend at a retail location batches of ethanol-blended and non-ethanol-blended reformulated gasoline, provided that—

''(A) each batch of gasoline to be blended has been individually certified as in compliance with subsections (h) and (k) prior to being blended;

''(B) the retailer notifies the Administrator prior to such blending, and identifies the exact location of the retail station and the specific tank in which such blending will take place;

''(C) the retailer retains and, as requested by the Administrator or the Administrator's designee, makes available for inspection such certifications accounting for all gasoline at the retail outlet; and

''(D) the retailer does not, between June 1 and September 15 of each year, blend a batch of VOC-controlled, or 'summer', gasoline with a batch of non-VOC-controlled, or 'winter', gasoline (as these terms are defined under subsections (h) and (k)).

''(2) LIMITATIONS.—

''(A) FREQUENCY LIMITATION.—A retailer shall only be permitted to blend batches of compliant reformulated gasoline under this subsection a maximum of two blending periods between May 1 and September 15 of each calendar year.

''(B) DURATION OF BLENDING PERIOD.—Each blending period authorized under subparagraph (A) shall extend for a period of no more than 10 consecutive calendar days.

''(3) SURVEYS.—A sample of gasoline taken from a retail location that has blended gasoline within the past 30 days and is in compliance with subparagraphs (A), (B), (C), and (D) of paragraph (1) shall not be used in a VOC survey mandated by 40 C.F.R. Part 80.

''(4) STATE IMPLEMENTATION PLANS.—A State shall be held harmless and shall not be required to revise its State implementation plan under section 110 to account for the emissions from blended gasoline authorized under paragraph (1).

''(5) PRESERVATION OF STATE LAW.—Nothing in this subsection shall—

''(A) preempt existing State laws or regulations regulating the blending of compliant gasolines; or

''(B) prohibit a State from adopting such restrictions in the future.

''(6) REGULATIONS.—The Administrator shall promulgate, after notice and comment, regulations implementing this subsection within one year after the date of enactment of this subsection.

''(7) EFFECTIVE DATE.—This subsection shall become effective 15 months after the date of its enactment and shall apply to blended batches of reformulated gasoline on or after that date, regardless of whether the implementing regulations required by paragraph (6) have been promulgated by the Administrator by that date.

''(8) LIABILITY.—No person other than the person responsible for blending under this subsection shall be subject to an enforcement action or penalties under subsection (d) solely arising from the blending of compliant reformulated gasolines by the retailers.

''(9) FORMULATION OF GASOLINE.—This subsection does not grant authority to the Administrator or any State (or any subdivision thereof) to require reformulation of gasoline at the refinery to adjust for potential or actual emissions increases due to the blending authorized by this subsection.''.

Subtitle B—Underground Storage Tank Compliance

SEC. 1521. SHORT TITLE.

This subtitle may be cited as the ''Underground Storage Tank Compliance Act of 2004''.

SEC. 1522. LEAKING UNDERGROUND STORAGE TANKS.

(a) IN GENERAL.—Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

''(f) TRUST FUND DISTRIBUTION.—

''(1) IN GENERAL.—

''(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State for—

''(i) actions taken by the State under section 9003(h)(7)(A);

''(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to State fund or State assurance programs under subsection (c)(1);

''(iii) any State fund or State assurance program carried out under subsection (c)(1) for a release from an underground storage tank regulated under this subtitle to the extent that, as determined by the State in accordance with guidelines developed jointly by the Administrator and the States, the financial resources of the owner and operator of the underground storage tank (including resources provided by a program in accordance with subsection (c)(1)) are not adequate to pay the cost of a corrective action without significantly impairing the ability of the owner or operator to continue in business; or

''(iv) enforcement, by a State or a local government, of State or local regulations pertaining to underground storage tanks regulated under this subtitle.

''(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

''(C) PROHIBITED USES.—Funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under subparts B, C, D, H, and G of part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

''(2) ALLOCATION.—

''(A) PROCESS.—Subject to subparagraphs (B) and (C), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using an allocation process developed by the Administrator.

''(B) DIVERSION OF STATE FUNDS.—The Administrator shall not distribute funds under subparagraph (A)(iii) of subsection (f)(1) to any State that has diverted funds from a State fund or State assurance program for purposes other than those related to the regulation of underground storage tanks covered by this subtitle, with the exception of those transfers that had been completed earlier than the date of enactment of this subsection.

''(C) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) after—

''(i) consulting with State agencies responsible for overseeing corrective action for releases from underground storage tanks; and

''(ii) taking into consideration, at a minimum, each of the following:

''(I) The number of confirmed releases from federally regulated leaking underground storage tanks in the States.

''(II) The number of federally regulated underground storage tanks in the States.

''(III) The performance of the States in implementing and enforcing the program.

''(IV) The financial needs of the States.

''(V) The ability of the States to use the funds referred to in subparagraph (A) in any year.

''(3) DISTRIBUTIONS TO STATE AGENCIES.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

''(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

''(B) is enforcing a State program approved under this section.

''(4) COST RECOVERY PROHIBITION.—Funds from the Trust Fund provided by States to owners or operators under paragraph (1)(A)(iii) shall not be subject to cost recovery by the Administrator under section 9003(h)(6).''.

(b) WITHDRAWAL OF APPROVAL OF STATE FUNDS.—Section 9004(c) of the Solid Waste Disposal Act (42 U.S.C. 6991c(c)) is amended by inserting the following new paragraph at the end thereof:

''(6) WITHDRAWAL OF APPROVAL.—After an opportunity for good faith, collaborative efforts to correct financial deficiencies with a State fund, the Administrator may withdraw approval of any State fund or State assurance program to be used as a financial responsibility mechanism without withdrawing approval of a State underground storage tank program under section 9004(a).''.

SEC. 1523. INSPECTION OF UNDERGROUND STORAGE TANKS.

(a) INSPECTION REQUIREMENTS.—Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended by inserting the following new subsection at the end thereof:

''(c) INSPECTION REQUIREMENTS.—

''(1) UNINSPECTED TANKS.—In the case of underground storage tanks regulated under this subtitle that have not undergone an inspection since December 22, 1998, not later than 2 years after the date of enactment of this subsection, the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of all such tanks to determine compliance with this subtitle and the regulations under this subtitle (40 C.F.R. 280) or a requirement or standard of a State program developed under section 9004.

''(2) PERIODIC INSPECTIONS.—After completion of all inspections required under paragraph (1), the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of each underground storage tank regulated under this subtitle at least once every 3 years to determine compliance with this subtitle and the regulations under this subtitle (40 C.F.R. 280) or a requirement or standard of a State program developed under section 9004. The Administrator may extend for up to one additional year the first 3-year inspection interval under this paragraph if the State demonstrates that it has insufficient resources to complete all such inspections within the first 3-year period.

''(3) INSPECTION AUTHORITY.—Nothing in this section shall be construed to diminish the Administrator's or a State's authorities under section 9005(a).''.

(b) STUDY OF ALTERNATIVE INSPECTION PROGRAMS.—The Administrator of the Environmental Protection Agency, in coordination with a State, shall gather information on compliance assurance programs that could serve as an alternative to the inspection programs under section 9005(c) of the Solid Waste Disposal Act (42 U.S.C. 6991d(c)) and shall, within 4 years after the date of enactment of this Act, submit a report to the Congress containing the results of such study.

SEC. 1524. OPERATOR TRAINING.

(a) IN GENERAL.—Section 9010 of the Solid Waste Disposal Act (42 U.S.C. 6991i) is amended to read as follows:

''SEC. 9010. OPERATOR TRAINING.

''(a) GUIDELINES.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2004, in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for persons having primary daily on-site management responsibility for the operation and maintenance of underground storage tanks.

''(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

''(A) State training programs in existence as of the date of publication of the guidelines;

''(B) training programs that are being employed by tank owners and tank operators as of the date of enactment of the Underground Storage Tank Compliance Act of 2004;

''(C) the high turnover rate of tank operators and other personnel;

''(D) the frequency of improvement in underground storage tank equipment technology;

''(E) the nature of the businesses in which the tank operators are engaged; and

''(F) such other factors as the Administrator determines to be necessary to carry out this section.

''(b) STATE PROGRAMS.—

''(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State that receives funding under this subtitle shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1).

''(2) REQUIREMENTS.—State requirements described in paragraph (1) shall—

''(A) be consistent with subsection (a);

''(B) be developed in cooperation with tank owners and tank operators;

''(C) take into consideration training programs implemented by tank owners and tank operators as of the date of enactment of this section; and

''(D) be appropriately communicated to tank owners and operators.

''(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements requirements described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $200,000, to be used to carry out the requirements.

''(c) OPERATORS.—All persons having primary daily on-site management responsibility for the operation and maintenance of any underground storage tank shall—

''(1) meet the training requirements developed under subsection (b); and

''(2) repeat the applicable requirements developed under subsection (b), if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with—

''(A) a requirement or standard promulgated by the Administrator under section 9003; or

''(B) a requirement or standard of a State program approved under section 9004.''.

(b) STATE PROGRAM REQUIREMENT.—Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding the following new paragraph at the end thereof:

''(9) State-specific training requirements as required by section 9010.''.

(c) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e) is amended as follows:

(1) By striking ''or'' at the end of subparagraph (B).

(2) By adding the following new subparagraph after subparagraph (C):

''(D) the training requirements established by States pursuant to section 9010 (relating to operator training); or''.

(d) TABLE OF CONTENTS.—The item relating to section 9010 in table of contents for the Solid Waste Disposal Act is amended to read as follows:

''Sec. 9010. Operator training.''.

SEC. 1525. REMEDIATION FROM OXYGENATED FUEL ADDITIVES.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended as follows:

(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 striking ''and including the authorities of paragraphs (4), (6), and (8) of this subsection'' and inserting ''and the authority under sections 9011 and 9012 and paragraphs (4), (6), and (8),''.

(2) By adding at the end the following:

''(12) REMEDIATION OF OXYGENATED FUEL CONTAMINATION.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of a fuel containing an oxygenated fuel additive that presents a threat to human health or welfare or the environment.

''(B) APPLICABLE AUTHORITY.—The Administrator or a State shall carry out subparagraph (A) in accordance with paragraph (2), and in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

SEC. 1526. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

(a) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

''SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.

''Funds made available under section 9014(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

''(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of State regulations pertaining to underground storage tanks regulated under this subtitle; and

''(2) by the Administrator, for tanks regulated under this subtitle (including under a State program approved under section 9004).''.

(b) GOVERNMENT-OWNED TANKS.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

''(i) GOVERNMENT-OWNED TANKS.—

''(1) STATE COMPLIANCE REPORT.—(A) Not later than 2 years after the date of enactment of this subsection, each State that receives funding under this subtitle shall submit to the Administrator a State compliance report that—

''(i) lists the location and owner of each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with section 9003; and

''(ii) specifies the date of the last inspection and describes the actions that have been and will be taken to ensure compliance of the underground storage tank listed under clause (i) with this subtitle.

''(B) An underground storage tank described in this subparagraph is an underground storage tank that is—

''(i) regulated under this subtitle; and

''(ii) owned or operated by the Federal, State, or local government.

''(C) The Administrator shall make each report, received under subparagraph (A), available to the public through an appropriate media.

''(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the report.

''(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.''.

(c) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

''(d) PUBLIC RECORD.—

''(1) IN GENERAL.—The Administrator shall require each State that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States), a record of underground storage tanks regulated under this subtitle.

''(2) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State, respectively, shall include, for each year—

''(A) the number, sources, and causes of underground storage tank releases in the State;

''(B) the record of compliance by underground storage tanks in the State with—

''(i) this subtitle; or

''(ii) an applicable State program approved under section 9004; and

''(C) data on the number of underground storage tank equipment failures in the State.''.

(d) INCENTIVE FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

''(e) INCENTIVE FOR PERFORMANCE.—Both of the following may be taken into account in determining the terms of a civil penalty under subsection (d):

''(1) The compliance history of an owner or operator in accordance with this subtitle or a program approved under section 9004.

''(2) Any other factor the Administrator considers appropriate.''.

(e) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

''Sec. 9011. Use of funds for release prevention and compliance.''.

SEC. 1527. DELIVERY PROHIBITION.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

''SEC. 9012. DELIVERY PROHIBITION.

''(a) REQUIREMENTS.—

''(1) PROHIBITION OF DELIVERY OR DEPOSIT.—Beginning 2 years after the date of enactment of this section, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for fuel delivery or deposit.

''(2) GUIDANCE.—Within 1 year after the date of enactment of this section, the Administrator and States that receive funding under this subtitle shall, in consultation with the underground storage tank owner and product delivery industries, for territory for which they are the primary implementing agencies, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum—

''(A) the criteria for determining which underground storage tank facilities are ineligible for delivery or deposit;

''(B) the mechanisms for identifying which facilities are ineligible for delivery or deposit to the underground storage tank owning and fuel delivery industries;

''(C) the process for reclassifying ineligible facilities as eligible for delivery or deposit; and

''(D) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4).

''(3) DELIVERY PROHIBITION NOTICE.—

''(A) ROSTER.—The Administrator and each State implementing agency that receives funding under this subtitle shall establish within 24 months after the date of enactment of this section a Delivery Prohibition Roster listing underground storage tanks under the Administrator's or the State's jurisdiction that are determined to be ineligible for delivery or deposit pursuant to paragraph (2).

''(B) NOTIFICATION.—The Administrator and each State, as appropriate, shall make readily known, to underground storage tank owners and operators and to product delivery industries, the underground storage tanks listed on a Delivery Prohibition Roster by:

''(i) posting such Rosters, including the physical location and street address of each listed underground storage tank, on official web sites and, if the Administrator or the State so chooses, other electronic means;

''(ii) updating these Rosters periodically; and

''(iii) installing a tamper-proof tag, seal, or other device blocking the fill pipes of such underground storage tanks to prevent the delivery of product into such underground storage tanks.

''(C) ROSTER UPDATES.—The Administrator and the State shall update the Delivery Prohibition Rosters as appropriate, but not less than once a month on the first day of the month.

''(D) TAMPERING WITH DEVICE.—

''(i) PROHIBITION.—It shall be unlawful for any person, other than an authorized representative of the Administrator or a State, as appropriate, to remove, tamper with, destroy, or damage a device installed by the Administrator or a State, as appropriate, under subparagraph (B)(iii) of this subsection.

''(ii) CIVIL PENALTIES.—Any person violating clause (i) of this subparagraph shall be subject to a civil penalty not to exceed $10,000 for each violation.

''(4) LIMITATION.—

''(A) RURAL AND REMOTE AREAS.—Subject to subparagraph (B), the Administrator or a State shall not include an underground storage tank on a Delivery Prohibition Roster under paragraph (3) if an urgent threat to public health, as determined by the Administrator, does not exist and if such a delivery prohibition would jeopardize the availability of, or access to, fuel in any rural and remote areas.

''(B) APPLICABILITY OF LIMITATION.—The limitation under subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator or the appropriate State that exercising the authority of paragraph (3) is limited by subparagraph (A).

''(b) EFFECT ON STATE AUTHORITY.—Nothing in this section shall affect the authority of a State to prohibit the delivery of a regulated substance to an underground storage tank.

''(c) DEFENSE TO VIOLATION.—A person shall not be in violation of subsection (a)(1) if the underground storage tank into which a regulated substance is delivered is not listed on the Administrator's or the appropriate State's Prohibited Delivery Roster 7 calendar days prior to the delivery being made.''.

(b) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By adding the following new subparagraph after subparagraph (D):

''(E) the delivery prohibition requirement established by section 9012,''.

(2) By adding the following new sentence at the end thereof: ''Any person making or accepting a delivery or deposit of a regulated substance to an underground storage tank at an ineligible facility in violation of section 9012 shall also be subject to the same civil penalty for each day of such violation.''.

(c) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

''Sec. 9012. Delivery prohibition.''.

SEC. 1528. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended to read as follows:

''SEC. 9007. FEDERAL FACILITIES.

''(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any underground storage tank or underground storage tank system, or (2) engaged in any activity resulting, or which may result, in the installation, operation, management, or closure of any underground storage tank, release response activities related thereto, or in the delivery, acceptance, or deposit of any regulated substance to an underground storage tank or underground storage tank system shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting underground storage tanks in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local underground storage tank regulatory program. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning underground storage tanks with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State law concerning underground storage tanks, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any underground storage tank of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be

granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

''(b) REVIEW OF AND REPORT ON FEDERAL UNDERGROUND STORAGE TANKS.—

''(1) REVIEW.—Not later than 12 months after the date of enactment of the Underground Storage Tank Compliance Act of 2004, each Federal agency that owns or operates 1 or more underground storage tanks, or that manages land on which 1 or more underground storage tanks are located, shall submit to the Administrator, the Committee on Energy and Commerce of the United States House of Representatives, and the Committee on the Environment and Public Works of the United States Senate a compliance strategy report that—

''(A) lists the location and owner of each underground storage tank described in this paragraph;

''(B) lists all tanks that are not in compliance with this subtitle that are owned or operated by the Federal agency;

''(C) specifies the date of the last inspection by a State or Federal inspector of each underground storage tank owned or operated by the agency;

''(D) lists each violation of this subtitle respecting any underground storage tank owned or operated by the agency;

''(E) describes the operator training that has been provided to the operator and other persons having primary daily on-site management responsibility for the operation and maintenance of underground storage tanks owned or operated by the agency; and

''(F) describes the actions that have been and will be taken to ensure compliance for each underground storage tank identified under subparagraph (B).

''(2) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.''.

SEC. 1529. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following at the end thereof:

''SEC. 9013. TANKS ON TRIBAL LANDS.

''(a) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy—

''(1) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

''(A) an Indian reservation; or

''(B) any other area under the jurisdiction of an Indian tribe; and

''(2) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

''(A) an Indian reservation; or

''(B) any other area under the jurisdiction of an Indian tribe.

''(b) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report that summarizes the status of implementation and enforcement of this subtitle in areas located wholly within—

''(1) the boundaries of Indian reservations; and

''(2) any other areas under the jurisdiction of an Indian tribe.

The Administrator shall make the report under this subsection available to the public.

''(c) NOT A SAFE HARBOR.—This section does not relieve any person from any obligation or requirement under this subtitle.

''(d) STATE AUTHORITY.—Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.''.

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

''Sec. 9013. Tanks on Tribal lands.''.

SEC. 1530. FUTURE RELEASE CONTAINMENT TECHNOLOGY.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, after consultation with States, shall make available to the public and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate information on the effectiveness of alternative possible methods and means for containing releases from underground storage tanks systems.

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

''SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator the following amounts:

''(1) To carry out subtitle I (except sections 9003(h), 9005(c), 9011 and 9012) $50,000,000 for each of fiscal years 2004 through 2008.

''(2) From the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986:

''(A) to carry out section 9003(h) (except section 9003(h)(12)) $200,000,000 for each of fiscal years 2004 through 2008;

''(B) to carry out section 9003(h)(12), $200,000,000 for each of fiscal years 2004 through 2008;

''(C) to carry out sections 9004(f) and 9005(c) $100,000,000 for each of fiscal years 2004 through 2008; and

''(D) to carry out sections 9011 and 9012 $55,000,000 for each of fiscal years 2004 through 2008.''.

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

''Sec. 9014. Authorization of appropriations.''.

SEC. 1532. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended as follows:

(1) By striking ''For the purposes of this subtitle—'' and inserting ''In this subtitle:''.

(2) By redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively.

(3) By inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:

''(1) INDIAN TRIBE.—

''(A) IN GENERAL.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

''(B) INCLUSIONS.—The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and''.

(4) By inserting after paragraph (8) (as redesignated by paragraph (2) of this subsection) the following:

''(9) TRUST FUND.—The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENTS.—The Solid Waste Disposal Act (42 U.S.C. 6901 and following) is amended as follows:

(1) Section 9003(f) (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in paragraphs (2) and (3), by striking ''9001(2)(A)'' each place it appears and inserting ''9001(7)(A)''.

(2) Section 9003(h) (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking ''Leaking Underground Storage Tank Trust Fund'' each place it appears and inserting ''Trust Fund''.

(3) Section 9009 (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in subsection (d), by striking ''section 9001(1) (A) and (B)'' and inserting ''subparagraphs (A) and (B) of section 9001(10)''.

SEC. 1533. TECHNICAL AMENDMENTS.

The Solid Waste Disposal Act is amended as follows:

(1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A)) is amended by striking ''sustances'' and inserting ''substances''.

(2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(3) Section 9004(a) (42 U.S.C. 6991c(a)) is amended by striking ''in 9001(2) (A) or (B) or both'' and inserting ''in subparagraph (A) or (B) of section 9001(7)''.

(4) Section 9005 (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''.

TITLE XVI—STUDIES

SEC. 1601. 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 United States 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 1 year after the date of 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. 1602. NATURAL GAS SUPPLY SHORTAGE REPORT.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on natural gas supplies and demand. In preparing the report, the Secretary shall consult with experts in natural gas supply and demand as well as representatives of State and local units of government, tribal organizations, and consumer and other organizations. As the Secretary deems advisable, the Secretary may hold public hearings and provide other opportunities for public comment. The report shall contain recommendations for Federal actions that, if implemented, will result in a balance between natural gas supply and demand at a level that will ensure, to the maximum extent practicable, achievement of the objectives established in subsection (b).

(b) OBJECTIVES OF REPORT.—In preparing the report, the Secretary shall seek to develop a series of recommendations that will result in a balance between natural gas supply and demand adequate to—

(1) provide residential consumers with natural gas at reasonable and stable prices;

(2) accommodate long-term maintenance and growth of domestic natural gas-dependent industrial, manufacturing, and commercial enterprises;

(3) facilitate the attainment of national ambient air quality standards under the Clean Air Act;

(4) permit continued progress in reducing emissions associated with electric power generation; and

(5) support development of the preliminary phases of hydrogen-based energy technologies.

(c) CONTENTS OF REPORT.—The report shall provide a comprehensive analysis of natural gas supply and demand in the United States for the period from 2004 to 2015. The analysis shall include, at a minimum—

(1) estimates of annual domestic demand for natural gas that take into account the effect of Federal policies and actions that are likely to increase and decrease demand for natural gas;

(2) projections of annual natural gas supplies, from domestic and foreign sources, under existing Federal policies;

(3) an identification of estimated natural gas supplies that are not available under existing Federal policies;

(4) scenarios for decreasing natural gas demand and increasing natural gas supplies comparing relative economic and environmental impacts of Federal policies that—

(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

(D) encourage or require the use of energy conservation and demand side management practices; and

(E) affect access to domestic natural gas supplies; and

(5) recommendations for Federal actions to achieve the objectives of the report, including recommendations that—

(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(B) encourage or require the use of energy conservation or demand side management practices;

(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

(D) will improve access to domestic natural gas supplies.

SEC. 1603. 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 of 1977 (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 Congress not later than 180 days after the date of enactment of this Act.

SEC. 1604. 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 date of enactment of this Act, report to 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.

SEC. 1605. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within 1 year after the date of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to Congress.

SEC. 1606. TELECOMMUTING STUDY.

(a) STUDY REQUIRED.—The Secretary, in consultation with the Commission, the Director of the Office of Personnel Management, the Administrator of General Services, and the Administrator of NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(b) REQUIRED SUBJECTS OF STUDY.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT REQUIRED.—The Secretary shall submit to the President and Congress a report on the study required by this section not later than 6 months after the date of enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

(d) DEFINITIONS.—As used in this section:

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

(2) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(3) NTIA.—The term ''NTIA'' means the National Telecommunications and Information Administration of the Department of Commerce.

(4) TELECOMMUTING.—The term ''telecommuting'' means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

(5) FEDERAL EMPLOYEE.—The term ''Federal employee'' has the meaning provided the term ''employee'' by section 2105 of title 5, United States Code.

SEC. 1607. LIHEAP REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on how the Low-Income Home Energy Assistance Program could be used more effectively to prevent loss of life from extreme temperatures. In preparing such report, the Secretary shall consult with appropriate officials in all 50 States and the District of Columbia.

SEC. 1608. OIL BYPASS FILTRATION TECHNOLOGY.

The Secretary of Energy and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in reducing demand for oil and protecting the environment;

(2) examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets; and

(3) include in such study, prior to any determination of the feasibility of using oil bypass filtration technology, the evaluation of products and various manufacturers.

SEC. 1609. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary of Energy shall—

(1) conduct a study of the benefits of total integrated thermal systems in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Department of Defense and other Federal motor vehicle fleets.

SEC. 1610. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report that examines the feasibility of promoting collaborations between large institutions of higher education and small institutions of higher education through grants, contracts, and cooperative agreements made by the Secretary for energy projects. The Secretary shall also consider providing incentives for the inclusion of small institutions of higher education, including minority-serving institutions, in energy research grants, contracts, and cooperative agreements.

SEC. 1611. RELIABILITY AND CONSUMER PROTECTION ASSESSMENT.

Not later than 5 years after the date of enactment of this Act, and each 5 years thereafter, the Federal Energy Regulatory Commission shall assess the effects of the exemption of electric cooperatives and government-owned utilities from Commission regulation under section 201(f) of the Federal Power Act. The assessment shall include any effects on—

(1) reliability of interstate electric transmission networks;

(2) benefit to consumers, and efficiency, of competitive wholesale electricity markets;

(3) just and reasonable rates for electricity consumers; and

(4) the ability of the Commission to protect electricity consumers.

If the Commission finds that the 201(f) exemption results in adverse effects on consumers or electric reliability, the Commission shall make appropriate recommendations to Congress pursuant to section 311 of the Federal Power Act.

□ 1415

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to House Resolution 671, the gentleman from Texas (Mr. HALL) and the gentleman from Michigan (Mr. DINGELL) each will control 20 minutes. The gentleman from California (Mr. POMBO), the gentleman from West Virginia (Mr. RAHALL), the gentleman from Louisiana (Mr. MCCRERY), and the gentleman from Maryland (Mr. CARDIN) each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. HALL).

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

Mr. Speaker, I rise in support of H.R. 4503, which is the same as the H.R. 6 conference report. This bill is the most comprehensive energy bill we have debated in decades. We have debated energy legislation hard and fast for the past two Congresses, and we debated it for many Congresses prior to that.

Those who oppose a comprehensive energy bill seem to forget that they use the very resources that the energy bill seeks to produce, the very resources that are now in short supply.

People who oppose this bill will no doubt question why we are debating and voting on this bill today. They will claim that it is merely a political ploy to force passage of the conference report on H.R. 6. The real question is why opponents are willing to fiddle while Rome is burning by refusing to vote for this bill. I suppose their constituents walk to work or ride horses, burn candles instead of electricity, do not use furnaces or air conditioners, and do not use plastics. If we continue, Mr. Speaker, to do absolutely nothing, then that may be the scenario that will come to pass for all of us. I, for one, do not want to go back to those days.

One section of the bill that will do as much good as any other provision to alleviate supply shortages in the future is the Ultra Deepwater Research and Development Program. With public lands being increasingly more difficult to lease for oil and gas exploration and significant areas of the offshore still off limits, the ultra deepwater holds the key to our continued ability to supply most of our energy needs domestically. However, to tap resources that lie deep beneath the ocean floor in water depths greater than 1,500 meters will require a considerable amount of research and development.

The program this bill establishes through the Department of Energy provides the necessary funding to extract natural gas in an environmentally safe and secure manner, while providing much-needed natural gas to fuel our growing economy. Therefore, I urge the passage of H.R. 4503.

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

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

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

Mr. DINGELL. Mr. Speaker, the House is again considering a bill that has already passed the body, but it has not been enacted into law. This might be called the ''summer reruns.'' It might also be called low comedy, or ancient history, because this is an unfortunate waste, not only of this body's time but, quite frankly, the taxpayers' money.

We are about to set about passing a bill that was unacceptable to the Senate before, surrounded itself with enormous controversy, and will serve no purpose in terms of addressing energy concerns of this country.

Meanwhile, I note we have neither passed any budget nor any single appropriations measure. If there is ever a bill that does not deserve to pass twice, this is it. It should not even have been passed the first time. Rarely has a bill been so criticized in all quarters. This so-called Energy Policy Act is a conglomeration of costly special interest subsidies and antienvironmental provisions that newspapers from coast to coast have denounced. It includes the denunciation of such conservative newspapers as the editorial pages of the Wall Street Journal.

One prominent Republican Senator refers to this bill as one which helps ''hooters and polluters,'' because it provides subsidies for a Louisiana mall that will feature a Hooter's Restaurant, and because it has dozens of other provisions that threaten clean air, safe drinking water, like easing the regulations on such good-hearted American corporations as Halliburton, which uses hydraulic fracturing.

Indeed, the only support for this bill comes from the special interests and industries that met in secret with the Cheney task force to hatch this outrageous piece of legislation.

The conference on this bill was also, as I noted, held in secret and kept from the light of day. As I said when the Congress considered this legislation last year, ''when you lift the lid, it's like lifting the lid on a garbage can, because you get a strong smell of special interest provisions.''

While I support the recycling of trash, this piece of legislation looks worse the second time around. It is more than three times more costly than even the President requested. The Energy Information Administration says it will have no short-term impact on gasoline prices and, in the long run, will actually raise gasoline prices.

If my colleagues on the Republican side were paying attention to all Americans and not just special interests, they would recognize that there have been three important matters to deal with which have occurred on this President's watch: 1, gasoline prices and natural gas prices have reached all-time highs; 2, an electricity blackout that affected better than 50 million Americans; 3, the gouging of electricity consumers on the west coast has been a noteworthy outrage.

Democrats have proposed commonsense steps that we should take to address these problems, and we will discuss these matters and measures during the debate on the motion to recommit.

I usually applaud the recycling of trash, but this trash is well passed recycling. It is too tart. It should be put in the legislative trash heap where it belongs.

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

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

Mr. NORWOOD. Mr. Speaker, I thank the chairman for his generosity and for yielding me this time.

I just would point out that some might think this bill should not deserve to pass for the second time; but it did, it did pass very nicely the first time. Sixty-six Members of this House of Representatives above the passing mark decided this was a very good bill. So we are not in agreement as to whether it is a good bill or not.

Just this last November, I stood before this body and urged my colleagues to support the energy conference report. I have watched in frustration, along with the rest of the country, as gas prices continue to go through the roof and the other body sits on our hard work for the sake of election-year politicians. We are in desperate need of a comprehensive energy policy, and I want to extend my gratitude to the gentleman from Texas (Chairman BARTON) for bringing this legislation to the floor once again.

A truly comprehensive national energy plan should include the utilization of all domestic resources that can be extracted in an environmentally sound fashion; a diversified and well-balanced portfolio of fuel sources for electric generation, including nuclear, clean coal, hydro, and natural gas; improvements to transmission capacity, ensuring the reliability of our electric transmission grid, because oh, how we forget just some months ago; energy efficiency incentives, conservation measures, and targeted research dollars

with an eye on the future, and that is what this bill does.

Mr. Speaker, this bill achieves all of this and strikes the necessary balance. I rise today, Mr. Speaker, to support this bill; and I am happy to say I believe the majority of the House of Representatives will support it.

Not since early 1992 and, in fact, until this administration came along has the importance of U.S. energy policy been prioritized again where it should be. Today we can take another step forward to uniquely reposition ourselves as a country in terms of energy independence and getting back ahead of the curve.

I encourage all Members to support this sound, coherent, comprehensive policy for America. Let us send our colleagues in the other body a reminder that our constituents should come first. It is time to push politics to the side and do what is right for this country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to refrain from characterizations of the other body.

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

Mr. Speaker, the fact that we are considering this bill for the second time does not make it any better. On behalf of the Democrats on the Committee on Ways and Means, we would like to point out that this bill will cost $23.5 billion over the next 10 years and add to the deficit of this Nation. Every dollar of relief provided in this bill will have to be borrowed; and we are going to have to pay interest on it, adding to the irresponsible economic program that the majority has thrust upon us.

Mr. Speaker, it is interesting to look at the evolution of this bill. The President had requested that an energy bill be passed that cost $8 billion. When we passed the bill originally in this body, it cost $17.8 billion. In the other body, they passed a bill that was $15.8 billion, but with set-offs, with revenue provisions. Now we have a bill that has grown to $23.5 billion.

The reason, quite frankly, Mr. Speaker, is that this bill contains numerous special interest provisions to provide breaks for different corporate interests. It is not an energy policy. It is a corporate giveaway in many respects. It does not reduce our dependency on imported oil. We should be doing a much more aggressive program on renewables and alternative fuels, but we are not. This bill does very little to make us energy self-sufficient. It does nothing. It is actually counterproductive. It does not deal with the electricity blackouts that we have suffered. It certainly is not environmental friendly; in fact, it hurts our environment.

This is why this bill has been labeled by many of the editorial writers, USA Today: ''Costly local giveaways overload energy plan.'' The Detroit Free Press: ''Wrong direction on national energy strategy. This country would be better off if they shelve this effort.'' Philadelphia Inquirer: ''Leaders are using the blackout as an excuse to try to ram through a bill that has been wrong-headed since the day it emerged.''

Mr. Speaker, this bill was not worthy of our support before; it is not worthy of our support today.

Mr. Speaker, I ask unanimous consent that the remainder of my time be yielded to and controlled by the gentleman from Michigan (Mr. DINGELL).

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

There was no objection.

Mr. HALL. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I rise in support of this legislation because it will create jobs across the country and make us more secure by reducing our dependence on foreign oil.

The America that I know strives to be the best in everything. Our people are remarkably driven in their pursuit of excellence. We are home to the top scientists, doctors, inventors, and entrepreneurs.

Why, then, do we settle for honorable mention when it comes to our role as a player in the world energy market? Why are we not the gold medallist? Why has our country been without an energy policy for more than a decade? Why do we wait to act as each day puts us more in jeopardy while our foreign counterparts run up the tab at our expense?

We import more than half of our oil from foreign sources, and that number will grow to more than 66 percent by the end of the decade if we do not act now.

America loses when we import foreign oil. For every $1 billion that we import, we lose more than 12,000 jobs. At today's oil prices, that means we send more than 1.7 million jobs overseas. By passing a comprehensive energy policy, we will create more than 800,000 new jobs in the energy industry.

In my home State of Oklahoma, more than 100,000 people are employed by the energy industry. Mr. Speaker, I can tell my colleagues that these are good, high-wage jobs.

I have heard my colleagues on the other side of the aisle paint a gloom and doom picture of our economy. Well, here is their chance to make a difference.

We have a responsibility to pass this legislation and send it to President Bush. Rarely do we have an opportunity to create so many jobs, and it is time to act now.

Let us send an energy bill to the President, let us create more than 800,000 new jobs, and let it begin now.

□ 1430

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume under my time.

Mr. Speaker, the latest edition of Business Week notes that ''$2 a gallon gasoline have given the oil companies a Mississippi River of cash flow.''

Big oil is reeling in profit, reaching deep into the pockets of Americans at the pump. What happens in response? Today, the Republican majority wants to reward them with billions of dollars of tax breaks and directed spending that will not improve our energy situation one iota.

Indeed, this past February the Energy Information Administration performed an assessment of the pending legislation. It examined the billions in offshore oil and gas royalty relief and various tax credits in this bill and concluded that ''the impact on total primary energy consumption is small.''

That is not me saying that. That is the administration's own Energy Information Administration. So what is the purpose here today? What is the purpose in resurrecting this bloated bill on the floor?

The fact of the matter is that there is little in the way of relief for Americans at the gas pump in this bill. Adding insult to injury, the legislation would gouge them even further through a whole host of taxpayer subsidies to energy producers. This is misguided relief. It is not for the consumers. It is not for the consumers, but it is for the multinational corporations drilling for oil and gas in Federal Gulf of Mexico waters by granting them a taxpayer subsidized royalty holiday. They get to drill and the taxpayers foot the bill by foregoing royalty payments.

An unwarranted drilling incentive at a time of high energy prices, a staggering budget deficit, and the yet unknown full cost of conducting the war in Iraq. In fact, this legislation contains so many royalty reductions and kickbacks that the Treasury stands to lose a mint. There are royalty holidays for deep water wells, shallow water/deep wells and marginal wells, none of which I might add will do anything to enhance our energy security as evidenced by the Energy Information Administration's own assessment.

There is no wonder that newspapers in my congressional district editorialize against this bill. The Bluefield Daily Telegraph, for example, noted, ''The bill was ill-conceived and would reach deep into the pockets of West Virginians without providing any benefits to the State.''

The Huntington Herald Dispatch took issue with the provision in this bill that would put Appalachian and Midwestern mined coal at a competitive disadvantage to Western coal. And the newspaper is right on target in that respect.

The pending legislation would hurt the majority of coal producing regions and in other respects pays lip service to our most abundant domestic source of energy. According to CBO, of the close to $26 billion in tax breaks in this bill only $2.5 billion of that is for coal;

and this $2.5 billion is for clean coal technology applications. Yet there is a nationwide cap of 6,000 megawatts. That is peanuts. It is comparable to the annual energy output of the Grand Coulee Dam.

In fact, on a per capita basis, Mr. Speaker, Home Depot does better in this bill than the entire coal industry when you consider the $48 million that it would receive for not having to pay tariffs on ceiling fans. This is an energy bill?

I urge a no vote on the pending measure and urge that this body get serious about devising a national energy policy that takes into account all of our energy sources and our consumers' complaints.

Mr. Speaker, I ask unanimous consent that the balance of my time be yielded to the gentleman from Michigan (Mr. DINGELL) for purposes of control.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

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

Does the Republican energy bill help the American consumer? Does it have any meaningful help whatsoever? Well, the answer is no. And who do we get the answer from? We get the answer from the Department of Energy, the Bush administration. Here is what it says.

It says, ''The impact of this bill analyzed in this report on total primary energy consumption is small on a fuel specific basis; changes to production, consumption, imports and prices are negligible.''

What else does it say? It says, ''In 2015 the average gasoline prices relative to the reference case are 3 cents per gallon higher and average reformulated gasoline prices are 8 cents per gallon higher than in the reference case,'' meaning today.

So this bill, according to the Bush administration's own Department of Energy, is going to lead to gas prices that are 3 to 8 cents higher than today. The American people are thinking, I wonder what Congress is going to do about high gasoline prices?

Well, according to the Bush administrations's own Department of Energy, this bill will increase them by 3 to 8 cents per gallon. That is a travesty.

This bill will have a negligible impact on energy production, a negligible impact on energy consumption, a negligible impact on energy imports, will increase the price of gasoline by 3 cents a gallon for regular. It will increase gas prices by 8 cents a gallon for reformulated. It provides $23 billion worth of special interest tax breaks for the oil, gas, coal, nuclear, utility industry. It weakens the Clean Air Act. It weakens the Clean Water Act. It repeals the protections against cross-subsidies amongst these big energy giants.

But what is not in here? SUVs, automobiles, vehicles, where we put 70 percent of all oil in our country. Not a word. We will not be doing anything about that in this bill. We now import 60 percent of our oil and we have 135,000 young people over in the Middle East. This bill does not do anything about that. We are coming back in 15 more years importing 80 percent of our oil as the next generation of young men and women go over to the Middle East to protect the oil lines coming into our country.

This bill does not meet the challenge of those 135,000 young men and women over in the Middle East. It does not meet the challenge of the 24 million children and adults with asthma in our country from all of this pollution. It does not meet the challenge of 60, 70, 80 percent of our oil being imported into our country. It does not meet the challenge of the day. We have young men and women over in the Middle East. This bill does not reduce our dependence upon imported oil. It raises the price of gasoline at the pump, and it leaves the next generation wondering when they will have to go over to the Middle East.

This bill is a failure. It does not do the job for the American public. It must be rejected as historically inappropriate for the challenge this generation faces to meet the challenge of the times that we live in.

Mr. HALL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore. The gentleman from Texas (Mr. HALL) has 13 minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 19½ minutes remaining. The gentleman from Louisiana (Mr. MCCRERY) has been designated 5 minutes but is currently not on the floor of the House. The gentleman from California (Mr. POMBO) has 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to my good friend, the gentleman from Massachusetts (Mr. MARKEY) and his eloquent remarks when he talked about the impact of this bill, and that it would not have an impact, or if it did it would have a negative impact. I would agree with him in the short term that that is probably correct, that if we pass this bill and the other body passes this bill and the President signed it tomorrow, I think it is fair to say that the energy prices would not go immediately down. But I would dispute the assertion that over the long term there is no positive impact.

I would offer the analogy of deciding whether to plant a field of corn. Obviously, the day you plant it you are not going to get an ear of corn to eat. But over time you are going to get bushels and bushels of corn to eat and to feed your family and to feed the world.

Well, the same thing could be said about this energy bill. We have already passed it once in this body, 246 to 180. The reason that we are bringing it up again is because the other body has not seen fit to even bring it to a vote, and we are hopeful that if we pass it yet once again that at some point this summer the other body may see fit to at least bring it up to a vote.

We need a comprehensive energy bill because gasoline prices are up, coal prices are up, natural gas prices are up, crude imports are up, refined product imports are up. We need to reform our electricity grid. This bill does that. We need to repeal PUHCA, the Public Utility Holding Company Act. This bill does that. We need to set up a program to go in and refit our existing old coal fired power plans. This bill does that. We need to determine if there is a better way to do automobile fuel efficiency in the program that is called CAFE. This bill does that. We need to increase our conservation efforts. This bill has provisions that it is estimated would eliminate the need for 130 additional power plants. We need to reform our hydroelectric relicensing process. This bill does that.

I could go on and on and on, Mr. Speaker, but I will simply conclude by saying this. There is not an alternative. If my friends in the other body or my friends on the other sides that are opposed to this bill have a better way to do it, let us see it. This bill has passed this House 246 to 180. It will pass the other body if it ever gets up to a vote. We need a comprehensive energy policy in my opinion in this country that is market based. This bill is that policy.

So I hope that as we did back in November we once again pass this bill, send it to the other body, and hopefully get the other body to bring it up.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members on both sides of the aisle, as the Chair recently ruled on September 19, 2002, in response to a point of order, that Members must confine remarks about the Senate to factual references, avoiding characterizations of Senate action or inaction, remarks urging Senate action or inaction, and references to Members of the Senate other than as sponsors of legislation.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. OBERSTAR).

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

Mr. OBERSTAR. Mr. Speaker, from the perspective of the Committee on Transportation and the Infrastructure on which I serve, the Democrats on that committee, we find a number of

offensive provisions littered throughout this bill that fall within the jurisdiction of our committee. I want to be very specific.

Section 328 exempts the oil and gas industry from complying with the stormwater permitting requirements of the Clean Water Act of 1972 for construction purposes. This is the only construction action that would not be subject to clean water requirements should this provision prevail.

Section 756(c) of the conference report allows a 250 pound increase in the weight of some heavy trucks purportedly for the purpose of providing an incentive to use a certain type of idle reduction technology. Well, we have examined this issue in great detail and with the Department of Transportation and the Federal Highway Administration, the increase in truck weight will inflict damage on the highway infrastructure and create a safety problem and will cost about $300 million a year in increased highway damage. The exemption is unnecessary. The industry's own figures show that idling reduction technologies pay for themselves in reduced fuel costs in about 2 years.

Section 1502 provides special protection for MTBE producers from liability associated with the cleanup costs and damage caused by contamination of groundwater. As a result of the special interest provision here, taxpayers will be forced to pay an estimated $29 billion cost of cleaning MTBE contaminated water across the country. That is egregious and unnecessary.

Section 326 establishes a dangerous precedent under the National Environmental Policy Act by authorizing the Federal Government to reimburse oil and gas companies for the cost of undertaking environmental impact analyses for oil and gas leasing. They are going to make money off of it. They ought to do their own environmental impact analysis costs.

Mr. HALL. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman emeritus of the Committee on Commerce.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from Texas (Mr. HALL) for yielding me time.

Mr. Speaker, this will be the second time the House votes on this identical conference report. We have already passed another energy bill in a previous Congress that never made it to final passage out of the Congress, it was not yet signed into law. This is the second time now this body will vote on the comprehensive energy conference report following the passage in the House and the Senate of the energy bills.

□ 1445

A conference report came out of the conference committee between the House and the Senate. It was chaired by Senator DOMENICI. The last time this House voted on the conference report, 246 of my colleagues voted for it, 180 voted against it. I suspect we will get something like the same vote today, and I want to commend the House for doing what the other body has not yet done, for taking final action on comprehensive energy for our country.

This Nation is suffering. We are in dire need of a policy that tells the energy future traders on Wall Street to quit running the prices up and to begin thinking about a future where we are producing more energy at home for our own people instead of constantly fighting over battlefields to defend other people's energy supplies that we depend upon.

When the last Arab oil embargo hit, we were 30 percent dependent on foreign oil. Today, we are 60 percent dependent, and that number continues to rise. The last refinery built in America was built in my district 25 years ago. We have not stopped building roads, we have not stopped building automobiles, we have not stopped building houses or factories in the country. We just stopped building the factories that produce the energy for the country.

My colleagues wonder why we are so dependent, have so much at risk, why this Nation depends upon people we cannot depend upon anymore, just to keep the lights on anymore? That is our fault.

I want to commend this House. Whatever my colleagues might agree or disagree about, this hugely important energy bill that contains conservation, alternative measures, good incentives to produce energy here at home, bills to make sure our grids are more reliable, we avoid the catastrophe California went through and the Northeast went through, the blackouts provisions that make sure we change the energy future by incentivizing a new freedom initiative; whatever my colleagues felt about it, I thank them for passing it before. Pass it again. Let us continue to do what the other body so far refuses to do and help consumers in America for a change.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague from Michigan for yielding to me.

I want to welcome back our distinguished colleague from Louisiana and note that his old fire is still with him, and that is a pleasure.

I do rise in strong opposition to this legislation and to the rest of these ill-conceived energy bills. This much-vaunted Energy Week is not about enacting solutions to our energy problems. It is about election-year politics.

The Republican leadership wants to look as if it is doing something about these record-high gas prices. If they were serious about addressing this and a myriad of other energy issues, we would not be addressing this bill today.

This bill, Mr. Speaker, is a monstrosity. At a time of record-high deficits, the bill itself costs a whopping $31 billion. At a time of record-high oil industry profits, the bill would shovel billions in taxpayer subsidies to these very companies. At a time of record-high gas prices, this bill would actually raise gas prices, but that is not all.

The bill drills holes in the Clean Water Act; the Safe Drinking Water Act; NEPA, the National Environmental Protection Act; and the Coastal Zone Management Act. It lets MTBE producers off the hook for groundwater contamination their product caused, and it gives these same companies $2 billion of our constituents' money to get into a new line of work. What a deal.

Mr. Speaker, as we know, this is the same bill that passed this House last November and was thankfully not brought up in the Senate. The American people owe a debt of gratitude to the other body for stopping this awful bill last year. This House should follow such a good example and kill it today.

I urge a ''no'' vote on this bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would once again remind the Members that characterizations of the other body should be refrained from in this debate.

The gentleman from Texas (Mr. HALL) has 8 minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 16½ minutes remaining. The gentleman from California (Mr. POMBO) has 5 minutes remaining, and the gentleman from Louisiana (Mr. MCCRERY) has 5 minutes remaining.

The Chair recognizes the gentleman from Texas (Mr. HALL).

Mr. HALL. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

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

Mr. SHIMKUS. Mr. Speaker, I would like to thank the chairman for the time.

While Rome burns, Nero fiddles, and that is what we seem to be doing here in Washington. When we have historically the highest gas prices that any of us have ever seen, highest natural gas prices in our lifetime, a major blackout of the northeast, and we cannot pass an energy bill, we ought to be ashamed of ourselves.

The nay-sayers point out all these little problems for them and disregard all the humongous benefits that we have in this bill.

Let me talk about MTBE. I am an ethanol guy, ethanol State, Illinois. We grow it, we refine it, we use it. The MTBE provisions do not relieve people of their liability if they spill MTBE. It does not relieve people of their liabilities if it goes out of their storage areas and contaminates the groundwater.

What it does is it says if the Federal Government asks these people to refine MTBE, we told them to make MTBE, and now we are going to say they created a faulty product after the Federal

Government told them to produce MTBE? That is why we do not have industry investing in this country. We have no certainty. Who else but the government tell them to go build a product and then that same government 15 years later sues them and says you can sue them, take them to court, close down this industry. It is a shame, it is embarrassing, and for that to be the reason that this bill fails, we ought to be embarrassed for ourselves.

This country has to make a decision. If we want to use electricity, guess what, we have got to have a fuel, we have got to have generation, and then we have got to be able to transmit that electricity over lines. This bill does that.

Our country is a large country. We are going to be a very mobile society for decades. We are going to need to drive in our vehicles, and we are going to need to have fuel for our vehicles. This bill does that.

Mr. DINGELL. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding time to me, and I would certainly agree that we are fiddling while Rome is burning.

While our people in our districts are disgusted with the high gasoline prices, while our people in our districts understand that they need help from Congress to make ends meet, we are instead not passing an energy bill that would bring down gas prices, not passing an energy bill that would help the average person in all of our districts, but passing an energy bill that helps the big companies, the big industries, that says to polluters, we will take you off the hook, you do not even have to pay for the mess you have created; we are going to pay for it.

Some of my friends on the other side of the aisle say that we do not have enough money in government to pay for programs. Yet this bill contains obscene giveaways to those people that are doing the worst things when it comes to energy, the worst pollution. This is not a very good bill.

Many of my friends on the other side of the aisle say they oppose cloning when it comes to living organisms, but it is obvious that they fully support cloning legislative proposals, and as if fulfilling our greatest fears, the Energy Policy Act before us today is a clone of a monstrous bill that the House dealt with months ago.

Just like last time, the bill contains an ethanol mandate that hurts New Yorkers, my State, by forcing up gas prices, just to provide subsidies to multibillion dollar corporations like Archer Daniels Midland. Just like last time, it would open up our own public lands for huge corporations to drill and destroy. Just like last time, this act emphasizes drilling over conservation.

Whatever happened to conservation? It does nothing to reduce the United States' dependence on foreign oil or protect consumers from skyrocketing gas prices.

Just like last time, it ignores that there is great bipartisan support for the desperately needed electric reliability provision. We should be passing just that section and getting it to the President's desk. He would sign it, and we would be accomplishing something.

Just like last time, the House majority leadership is ignoring that there is bipartisan opposition to this bill in its present form. Mr. Speaker, let us drop the ethanol provision and the MTBE provision and the drilling provision. Let us concentrate on conservation and electric reliability. Let us have a bill that is a center, not a bill that is extreme, that cannot pass, that cannot be signed into law.

Let us start doing the work that needs to be done. Let us bring gas prices down. Let us get a bill that the American people can stand up and say, when the gas prices went up, Congress really did something to help us, not to help the big companies that pollute, not to continue our dependence on foreign oil, not to just pass a bill that was passed before, that we know has virtually no chance of being signed. Let us pass a commonsense bill. Defeat this bill.

Mr. HALL. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Texas (Mr. DELAY), the majority leader.

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

Mr. Speaker, 3 long years the American people have waited. In fact, some people have been working on a long-term energy policy for 8 to 10 years. President Bush promised to establish a national energy policy to prepare America's producers and distributors of energy for the changing times of the 21st century before he was even elected. His energy task force was formed inside the White House within 10 days of his inauguration.

The first comprehensive energy bill was introduced in the House in the summer of 2001. The House has passed it three times; and it has been stalled in the Senate all this time, even though a majority in the Senate supports the bill, but they will not let them vote on it. Three long years, Democrat obstruction in the Senate, obstruction, make no mistake, undertaken at the highest levels of Democrat leadership, at the beck and call of extreme special interests has kept the American people without a national energy policy.

For most of those 3 years, the United States has been at war with an ideology that makes its home in the very region that produces most of the world's oil. We depend to too large a degree on the energy resources produced in this unstable region, and we have had before us for 3 years a policy to change that fact.

The comprehensive energy policy we will pass once again today will reduce America's dependence on foreign oil. That greater independence will increase America's political and economic security which, in turn, will increase our national security; and in addition to protecting our security, this bill will also add to our prosperity.

Provisions in this bill would increase domestic energy production, would create hundreds of thousands of new jobs here at home while the Democrats' dithering in the Senate, solely responsible for America's continued overreliance on Middle East oil, is sending jobs overseas every week.

All along, provisions in this legislation that would encourage conservation and innovation and new fuel technologies have stagnated, thereby harming our economy, our environment, and letting us fall behind international competitors.

While the Democrats have hamstrung the energy bill in the Senate, gas prices have risen, and the Northeast was struck with the largest blackout in history. The summer traveling season is upon us, the fourth since the President first delivered his legislation to us; and still, the American people wait for action.

These are the facts. Jobs are waiting to be created. Our economy is waiting to be stronger and our Nation is waiting to be safer. I urge all my colleagues to help bring this waiting to an end. Vote ''yes'' on the comprehensive energy bill and give the Senate Democrats one more chance to do their duty.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would ask the Members' attention on both sides of the aisle.

Remarks in debate may not include characterizations of Senate action or inaction or attribute actions other than sponsorship to Members of the Senate. In further elaboration, adjectives tend to characterize what otherwise might be a permissible factual reference. Members are asked to heed the rule against characterizing Senate action or inaction.

□ 1500

The SPEAKER pro tempore (Mr. ISAKSON). The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, parliamentary inquiry before I yield time. I note that the majority members on the Committee on Ways and Means and the Committee on Resources have time available which has not yet been used. I am happy to yield time to our Members, but I would simply note that that time is pending over there. I would like to see what policies the Chair might have with regard to the yielding of those times.

The SPEAKER pro tempore. The Chair is proceeding based on who yields time among those who have been allocated time.

In reference to time, the gentleman from Michigan (Mr. DINGELL) has 13½ minutes. The gentleman from Texas (Mr. HALL) has 5 minutes. The gentleman from Louisiana (Mr. MCCRERY) has 5 minutes, and the gentleman from California (Mr. POMBO) has 5 minutes.

Mr. DINGELL. And I would note for the benefit of the Chair that the Committee on Energy and Commerce is the major committee of jurisdiction here.

Mr. Speaker, I will therefore yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank my ranking member and good friend, the gentleman from Michigan (Mr. DINGELL), for yielding me this time.

I rise again and again in support of a comprehensive energy legislation, and I will continue to stand as long as it takes for us to have a sane energy policy to make our economy stronger and more secure in the short- and the medium term.

Energy-producing States actually have a stronger interest in energy production, but consuming States need to realize that the U.S. energy market, gasoline, natural gas and electricity, does not develop by magic. It takes exploration, production, refining, pipelines. We do have an energy crisis, and we are seeing the offshoring of the chemical manufacturing industry, rising electric prices, rising heating and cooling costs, and rising gasoline prices at the pump.

Cuba is drilling 60 miles from Key West; and, yet, the Governor of Florida does not want, and we do not allow, American drilling companies to drill within 100 miles of Florida, even for zero-emitting platforms. We are not exploring or producing from our own domestic opportunities.

I support renewable energy and hydrogen energy and everything else; but, Mr. Speaker, those things are 25 and 50 years away. What we need to do is address something on a short- and medium term. A bipartisan majority of this House should approve the Energy Policy Act again.

The H.R. 6 conference report contains a narrow liability provision applicable only to the claims of defective products. The provision preserves all other negligence, nuisance and trespass claims, each of which is alleged in these pending MTBE suits. The fact is that the bill does not block recovery of these damages, and I have heard that time and time today. MTBE was de facto mandated to clean many of our cities' air; and while tasting and smelling bad, it is not a health threat. In fact, it has cleaned up a lot of our cities.

The U.S. Department of Health and Human Services, the U.S. National Research Council, Canada's Priority Substance Assessment Program, the European Union, the World Health Organization, the International Agency For Research on Cancer, and even the California Science Advisory Board have determined that MTBE should not be considered a carcinogen or a developmental or reproductive toxic.

Mr. Speaker, MTBE is a small part of this bill, but we need to make sure if we tell people to produce it and it cleans our air, we need to not punish them for it.

Mr. HALL. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY).

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

Mr. TERRY. Mr. Speaker, it is important that as we approach the summer of 2004, more than 3 years since Congress started the current energy debate, that we are still without an energy bill. Although as a member of the Energy and Commerce Committee, I think we have passed it on this side about three times.

In those 4 years, the price of oil has increased 75 percent from around $23 a barrel in 2001 to $40 a barrel as we stand here today. Natural gas has increased 80 percent, from between $3 and $4 a few years ago to more than $6 today. Since 2001, the price of gasoline has increased 52 percent. A blackout last summer showed vulnerabilities in our electrical transmission, which this bill addresses.

Our $11 trillion economy depends on a foundation of affordable energy, and we need a modern energy plan today.

This bill contains incentives to increase production of all energy sources, provisions to expedite construction of a natural gas pipeline from Alaska; renewable fuel standards, including 5 billion gallons of ethanol; tax credits for the purchase of fuel-efficient hybrid automobiles; electrical reliability language; a 50 percent increase in energy efficiency and conservation funding over the next 5 years; and new funding for futuristic alternative technologies, such as the hydrogen fuel cell, which are really within our grasp but we need to just remain to make usable and feasible. That is what is in this bill. There is so much good that can be accomplished while we just stand here and engage in this endless debate over years and years. We need this House energy bill to pass today.

Mr. DINGELL. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, there is a very good reason why we do not have an energy bill: the only bill this House can consider, this one, is a sorry piece of legislation.

The only energy bill that we have is one that relies on the energy of generous campaign fund-raising and high-powered lobbying. It encourages pollution and it discourages conservation. Instead of securing our energy independence, it ensures our continued overdependence on countries as volatile as the oil they possess.

This bill pays some pretense to supporting renewable energy, but the focus is definitely not on conservation or sustainable energy. The real focus is on subsidizing the same high-pollution industries that we have always relied on, with $32.5 billion in tax incentives and loan guarantees.

One of the best examples of the energy scams that are in this bill is the so-called synthetic fuels tax credit, the ''synfuels'' credit, and my, is it a ''sin''. Starch or pine tar is poured on coal, and when that is done, the coal does not burn any more efficiently and it does not burn with any less pollution, but it does decrease taxes. If you take the costly synfuels provision in this bill that these folks have tried to peddle once again as a retread energy bill and pile the dollar bills up past the ceiling of this building and burn them, you will generate more energy than they do with the money that they have wasted from the public treasury. And this is only one of the many outrageous examples of the scams in this bill.

At the same time that they do this, they ignore the public health by making our air dirtier, by weakening the Clean Water Act, and by granting total protection to MTBE as it pollutes the public waterways. They endanger the health of Americans at the same time that they fail to ensure that we will pay less at the pump or anywhere else.

What we have, in short, is a collection of unjustified tax breaks, loopholes, exemptions and dodges masquerading as a new energy policy. These tax giveaways are not offset. They endanger our fiscal health and our national treasury, as well as our hope for a better energy policy.

Mr. Speaker, we need a conservative national energy policy that conserves our resources, that increases energy efficiency, and provides reasonable production incentives. This bill fails on all fronts. Energy conservation can be a great jobs program for America, but not through this bill.

Mr. HALL. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Speaker, I would just like to respond to the gentleman from Texas (Mr. DOGGETT). I would point out to the gentleman that the gentleman who was the author of this bill originally, H.R. 6, and who has been the propelling force on H.R. 4503, which I support which is identical to the conference report, had 80 hearings on this. When we have 80 hearings, that is exceptional. For the gentleman to say this is a bill which is a sorry piece of mishmash is downright wrong because we cannot have 80 hearings and listen to everybody, and the patience that it requires. I would urge the gentleman to reconsider his thinking on this.

In fact, 46 Democrats supported this when the bill passed the floor before. Those 46 Democrats agree with the bill. The gentleman from Texas (Mr. DOGGETT) is from the same State as the chairman of the Committee on Energy and Commerce, and so I am surprised the gentleman does not support this bill.

Mr. Speaker, I rise in support of this bill. I believe when we look at the other 246 people who actually support

this bill, all of us will realize that it is very important that we pass it today. It provides incentives, renewable energy production, clean coal technology, low-income energy assistance, provides for certainty and reliable operation of our energy markets, and increased domestic production.

Mr. Speaker, it is a comprehensive energy bill. It is vital to our national security. All of us realize not too long ago we had the blackouts. We also are so dependent on other countries for our oil. Why not take this bill and pass it and realize if we do so with one-half of the United States' homes relying on natural gas as their main heating fuel, this energy bill allows for more oil and natural gas exploration.

Mr. DINGELL. Mr. Speaker, I reserve the balance of my time to enable the Committee on Resources and the Committee on Ways and Means on the majority side to yield such time as they may consume.

Mr. HALL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, when we look at this bill and read this bill and we debate the item called energy, I think we need to call upon ourselves and ask ourselves what probably is the major duty of a Member of Congress. It is probably to prevent a war. And how do you prevent wars? You prevent wars by removing the cause of wars.

Energy caused the war against Japan in 1941 when Cordell Hull and Henry Stimpson cut off their energy. They had 13 months' national existence, they were going to strike out somewhere. That brought on World War II.

George Bush's father sent 450,000 kids to a desert; that was a battle for energy. We did not love the Emir of Kuwait, that was to keep them from getting a bad man's, Saddam Hussein, foot, on half the known energy resources in the world.

Loss of energy and lack of energy will cause us to send our sons overseas. We do not get to drill on ANWR. We turn our backs on the next generation when we do that. We do not get to drill the ultra-deep. We are turning our backs on this next generation when we do not do that. Lack of energy causes wars.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

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

Mr. HOLT. Mr. Speaker, our friends on the other side of the aisle may not be writing much environmentally friendly legislation, but they certainly are good at recycling. What we have before us today is a bill identical to H.R. 6, a grab bag of special interest goodies, certainly not a real energy policy. And rather than coming up with a rational energy policy to meet our Nation's needs for the foreseeable future, the authors of this legislation are simply coming out with a bag of goodies.

It is a simple mathematical problem. America possesses less than 3 percent of the world's oil reserves and makes up 25 percent of the world's petroleum consumption. Members can do the math.

This bill does not provide what we need in this country which is a rational energy policy.

Mr. Speaker, I rise in opposition to this legislation and the entire "energy week" charade the House leadership has brought to us. Once again, rather than spending the time we have here on the House floor to honestly debate critical issues and solve problems, the House leadership has decided to simply bring back the same tired, unimaginative legislation. Our friends on the other side of the aisle may not write environmentally friendly legislation, but at least they are good at recycling.

Unfortunately, as this body is busy reshuffling papers and giving new titles to old bills, our Nation's dependence on foreign oil is growing worse. Rather than leading us into a secure energy future with a lower dependence on foreign oil, the bill before us merely subsidizes oil and gas companies to do more drilling—a short-term, ineffective solution.

It's a simple mathematical problem—America possesses less than 3% of the world's oil reserves but makes up 25 percent of the world's petroleum consumption. We can ravage our environment all we want and drill all over the country, but the simple truth is that we cannot use domestic sources of oil to satisfy our dangerous addiction.

The longer we continue to have such an unhealthy dependence on fossil fuels, the more we will have to rely on supplies from unstable countries like Nigeria and Venezuela—and of course, from the Middle East. Saudi Arabia has the largest remaining proven oil reserves—and recent attacks on America show the price we pay for drinking so deeply from there.

It is time that we create a real energy policy that reduces our overall dependence on oil so we can look forward to a sustainable energy future that underpins a healthy economy. Sadly, H.R. 4053 is identical to H.R. 6—a grab bag of special interest goodies, not a real energy policy. Rather than coming up with a rational energy plan to meet our Nation's needs for the foreseeable future, the authors of this legislation simply asked every energy industry what they want and turned it into legislative language.

This bill is notable for a few glaring omissions. First, it contains no renewable portfolio standard, a provision that would actually move our country toward a sustainable energy future by increasing our reliance on renewable energy. It contains pitiful levels of incentives for creating new renewable energy sources. It also fails to close the SUV loophole, a shameful part of our tax code that gives the wealthy tremendous incentives to continue buying the largest and most inefficient vehicles on the road.

What's worse, the bill does virtually nothing to save oil. At a time when it is clear that our dependence on foreign oil affects national security and it is apparent that we will never drill our way to independence domestically, we have an energy bill that refuses to mandate greater efficiency. Not only are there no provisions to increase automobile efficiency, this bill could actually undermine current fuel economy standards. In fact, the nonpartisan Energy Information Administration says that passage of this legislation will not reduce energy consumption and will actually lead to a three cent per gallon increase in average gasoline prices by the year 2015. So not only is this legislation doing nothing to reduce our dangerous dependence on foreign oil, it will actually increase gas prices.

I also want to express my displeasure at the cynical attempt by the House leadership to link drilling in the Arctic National Wildlife Refugee with the reauthorization of the Abandoned Mine Reclamation Fund. Drilling in ANWR makes no sense not only because it ravages a spectacular and sensitive environment, but also because it sets a senseless precedent of drilling for a tiny amount of oil rather than dealing with our problem of runaway oil consumption.

Mr. Speaker, I am voting against this conference agreement today because it is the wrong policy for America's future. Rather than leading us into a secure energy future with a lower dependence on foreign oil, this bill merely subsidizes oil and gas companies to do more drilling—a short-term, ineffective solution.

We need a responsible and sustainable approach to addressing our nation's energy needs. As an energy scientist who spent nearly a decade working at one the Nation's premiere alternative energy research labs, I have worked in Congress to help craft a strategy that will provide real energy security for central New Jersey residents and the United States. That's why Congress should focus on the development of renewable energy sources, including fuel cells, solar power, and fusion. We can fulfill the energy needs of a growing economy without compromising our national security interests or devastating our environment.

Mr. HALL. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this bill which has been called a mishmash is the most comprehensive package of energy legislation that has been on the floor of the House of Representatives in almost 50 years.

□ 1515

It touches on all aspects of energy production. It has a comprehensive conservation title. It has an extensive electricity reform title. It got bipartisan support when it came out as H.R. 6. It got bipartisan support when it came out as the conference report after a majority of the House and Senate conferees voted to bring it back to the respective bodies. I hope this afternoon when it comes up for a vote that once again we will send it to the other body and I hope it gets unanimous support this time.

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

Mr. Speaker, the Energy Policy Act of 2004 protects and strengthens America's economy, our standard of living and our national security by reducing

dependence on imported oil and increasing domestic energy production. America is in danger. All credible projections indicate a growing gap between the amount of energy America uses and the amount that we produce, even after factoring in healthy increases in efficiency and conservation.

The Energy Security Act of 2003 will increase, diversify and facilitate delivery of energy supplies from Federal lands to regions of our Nation with energy shortages. This bill, among other things, encourages energy production from American Indian lands and increases Indian self-determination; provides better access to oil and gas reserves on federally controlled lands and facilitates better pipeline and transmission infrastructure through Federal lands; encourages the use of waste material produced from the Healthy Forests Initiative as a source of energy, turning a fire hazard into energy; maximizes the value of the hydroelectric power production of existing Bureau of Reclamation facilities; provides incentives for the development of geothermal energy on public lands; and encourages the maximum recovery of coal on our Federal lands.

This bill does not include opening 2,000 acres of ANWR, which could increase our domestic reserves of oil by 50 percent or more, but we will get to that later. America now depends on foreign governments, such as Saudi Arabia, Nigeria and Venezuela for our chief transportation fuel, oil. This dependence continues to increase. To make matters worse, experts forecast that over the next two decades there will be a huge gap between demand and production of natural gas, a gap that can be made up only by imports of liquified natural gas. What makes more sense? Buying most of our two most important fuels, oil and gas, from foreign governments in politically unstable countries? Or developing our resources and helping our people right here in America?

With our troops engaged in Iraq, does it not make sense for us to adopt some sensible policies here at home that will boost our energy security? The committee passed a similar bill in the last Congress prior to the September 11 attack against our Nation. Since then our energy situation has gotten worse. Last year we passed energy legislation twice, and it is caught up in politics. This winter the poor and elderly suffered while they worried how to pay their utility bills. Factories have closed because of the cost of natural gas, and chemical and fertilizer production has been stopped in some places. Truckers, motorists and airlines are suffering from vastly increased fuel prices and this hurts all Americans.

President Bush asked Congress over 3 years ago to put our Nation on a path that would supply clean and affordable energy that we would use in smarter ways for our Nation's future. We have not yet succeeded. It is time for us to do our part for our national energy security by passing a balanced but strong energy bill.

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

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, once again I rise to oppose the Republican energy bill. The House has passed this bill several times already and now the majority wants to pass it again. It is time for the majority to face facts. They have overreached and they have failed.

The Republican energy bill is stunningly expensive. The total price tag for America is around $140 billion. As the deficit continues to grow, this bill is only getting less affordable. The energy bill is also laden with giveaways to major campaign contributors. The oil and electric utility industries are among the Republicans' largest donors. This bill returns the favor using taxpayer dollars. It would provide roughly $20 billion in subsidies to the oil industry alone. It would also relax Clean Water Act and other environmental requirements for the oil industry. And it would let the oil industry off the hook for contaminating groundwater across the country, forcing taxpayers to pay for the cleanup. The tragedy is that we have real energy problems which are approaching a crisis.

The United States' increasing dependence on oil adversely affects our economy, national security and the environment. Polluting and inefficient energy sources are driving potentially devastating global warming. U.S. energy markets are vulnerable to rampant manipulation and price spikes. But this bill would not solve any of these problems. In fact, it would make them worse. If we enacted this bill, the United States' dependence on foreign oil would continue to worsen. According to the Energy Information Administration, the U.S. will increase imports of foreign oil by 86 percent by 2025, and they project that this energy bill would reduce the amount of imports by only 1.2 percent by 2025.

Reducing demand for oil by making motor vehicles more efficient would help hold down gas prices. If we enacted this bill, it would move us in the wrong direction on global warming by subsidizing traditional energy sources. If we enacted this bill, energy marketers could continue to manipulate markets and drive prices through the roof. Congress has done nothing since California and the West Coast States faced repeated blackouts and astronomic energy bills 3 years ago. The gentleman from Michigan (Mr. DINGELL) and the gentleman from Massachusetts (Mr. MARKEY) proposed energy bill provisions to penalize fraud and manipulation in energy markets, but the Republicans rejected these provisions.

This bill is a failure. It is a collection of subsidies for energy industries, masquerading as an energy policy. The Senate, the other body, including some of the Republican Members of the other body, rightly rejected this bill and I hope they will do so again. It is time for the House Republicans to give up the charade. We need an energy bill that will address our urgent energy problems. I suggest that this one does not do it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to avoid characterizations of the other body.

Mr. POMBO. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE. I thank the gentleman for yielding me this time.

Mr. Speaker, I am here to talk briefly about the reasons that I support this particular energy bill. I think we ought to talk first about the need, then about the process and then about, finally, some of the important provisions in this bill.

In terms of the need, the President warned us 3 years ago what would happen if we did not have a comprehensive energy policy. He warned us that natural gas prices would go up and that would make American industry less competitive. He warned us that we would become more dependent upon foreign supplies, and he warned us that the price of gasoline was going to become prohibitive for many Americans. All of those warnings have been vindicated by the facts as we have frankly in Congress failed to act on I think a series of excellent recommendations by the administration.

So we have had the warning. We should have acted. I compliment this body for having acted in a bipartisan fashion. Frankly I am appreciative for the majority of our friends in the other body for having been supportive of this particular piece of legislation. If it were not for a technicality that prevents us from getting the legislation to a vote, we could have had the energy policy that this country needs months and months and months ago, and it would have resulted in more natural gas, lower prices at the pump and more security for the United States of America.

That is something we ought to think about. This bill is the product of an intricate negotiated compromise that will lead this country down the path toward energy independence, something we have needed for many, many years. Particularly I am pleased, Mr. Speaker, in the fact that it allows for the construction of a natural gas pipeline from Alaska's North Slope to the Lower 48 States. That would open up a tremendous new source of energy for this country. It allows for more natural gas exploration development by providing royalty relief for deep and ultradeep gas wells in the shallow waters off the Gulf of Mexico. I would have liked frankly to have seen those same provisions extended to deep gas drilling on land but as one of the compromises that was not included in the

bill. I hope we can do that later. It authorizes and encourages more nuclear power, more energy.

Mr. Speaker, I urge my colleagues to support this legislation which is genuinely bipartisan and move this country toward energy independence.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, this bill, this alleged energy bill, reminds me a little bit of a reverse Energizer bunny because it just keeps not going, not going and not going. One of the reasons it does not go anywhere is it perpetuates the fraud on the American people that the Enron Corporation put over on the West Coast. It does not have one single dime of refunds for the people of California for the billions of dollars that were stolen from them by the Enron Corporation. It does not have the $122 million that the people of Snohomish County, Washington have coming to them. It does not have the over $1 billion that the people of Washington have coming to them.

What does it take for my Republican friends to join us to finally get refunds for the American people? We have heard these tapes of the Enron traders talk about jamming Grandma Millie, stealing millions of dollars, saying ''burn, baby, burn'' when the West Coast had brownouts. And the Republicans gave us nothing, not a dollar in refunds. What does it take? We have got the equivalent of fingerprints, DNA, videotape and confessions from Enron and yet this bill does not do a single thing to get refunds for the consumers of the West Coast of the United States.

Goodness knows we have tried. We asked the Vice President of the United States 2 years ago to help us. We told the Vice President of the United States that while there were brownouts in California, while stoplights were not working, 32 percent of all the generating capacity was turned off. What he said was, ''The problem with you is you just don't understand economics.'' Well, we do understand economics. We just do not understand Enronomics. The majority party unfortunately is forcing down the throats of consumers in this country Enronomics. They are allowing Enron to continue to pillage and burn the West Coast. We deserve refunds. Reject this bill and get a bill that will stand up to Enron.

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume. I try on the floor of the House when I speak to treat all Members of the House, Republican, Democrat, majority, minority with respect, both for their views and for their integrity. Unfortunately today, I have heard from some members of the minority reckless and baseless charges, ranging from supporters of the legislation before us rewarding their fat cat friends in the energy industry, repaying contributions, charges which we could just as easily hurl at some Members of the minority for the votes they make in favor of legislation proposed and supported by their supporters and their contributors. But I choose not to do that. I do not think it is fitting for Members to question the motives of Members for supporting or opposing legislation.

It would also be easy for me to charge Members of the minority with not caring about the price of energy in this country, not caring what people pay at the gas pump for gasoline, because they have supported over the years tremendous increases in gas taxes. Up to 50 percent increase in gas taxes has been proposed by Members of the minority.

□ 1530

And a few years ago, there was a tax on BTUs, on energy, that the minority supported. They do not care, it would be easy for me to say, about what people in this country, taxpayers, pay for their energy use in this country, whether they are from the Northeast or from the South or the West.

But those things are not before us today. We have before us today a very serious, well-crafted, well-rounded approach to energy policy, comprehensive energy policy, in this country. That is what we should focus on, and that is what I will focus on in the remainder of my remarks.

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

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

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

Mr. DINGELL. Mr. Speaker, I can understand the frustrations of my good friends on the Republican side. They brought forward a piece of legislation that is redolent of special interests. Quite frankly, it smells bad. It is tired in that it has been before this body before. It has been rejected by the Senate because it was such a clear mishmash of special interest legislation, and I can understand the frustration because my good friends over there could not shoehorn something through in a closed conference after they had denied the right of the House to really fully amend and address these matters and after they had denied us the right to participate in the debates and the discussions which went on in the conference between the House and Senate.

We will shortly be offering legislation in a form of a motion to recommit which will do the three things that really need to be done to protect our consumers and our economy. First, we are going to address the problem which rose with regards to electricity prices in California and other west coast States spiraling out of control as Enron and other thieves and scoundrels exploited an inadequate and poorly implemented regulatory system. We will be inserting into the RECORD some of the wonderful comments of Enron executives describing how they had treated the consuming public of the United States.

Second, my own State of Michigan and six others suffered severe practical and economic consequences from a massive blackout caused partly by malfeasance and partly by inadequate emergency planning and communications. That will be addressed here.

Third, this spring and summer consumers throughout the Nation have been hit by high gasoline prices that show no sign of returning to normal levels at any time soon. We will try to deal with this question.

The bill, H.R. 4503, does not address the answers to these questions. While there are some good provisions in the bill, it has a plethora of other problems, not the least of which is a price tag to the consuming public and the taxpaying public of better than $31 billion.

It is a shame that our Republican colleagues have chosen to continue beating a dead horse. They sent a bad bill to the Senate. The Senate in a bipartisan fashion, and I am sure this is immensely frustrating to my Republican colleagues, has rejected that legislation. It has not been brought up. This is quite obviously an attempt, and has been so described by my Republican colleagues, as an effort to embarrass the Senate into moving that legislation.

But I think we need to address something here which we could do. The Senate in its wisdom has chosen to reject this historically bad piece of legislation, and I would urge us to address now the things which we can do: fraud and criminal misbehavior in the electricity markets, blackouts, and high gasoline prices. This would be a responsible step, and it should be for this body to stop playing games and having summer reruns which have as little merit, for example, as ''The Cabinet of Dr. Caligari'' or perhaps ''Night of the Living Dead.''

In any event, I will be offering a motion to recommit with the distinguished gentlewoman from California (Ms. ESHOO), and I will describe that at a time later. It will address these questions.

[From the Energy Daily, May 25, 2004]

ENRON TRADERS BRAG OF STEALING MONEY FROM CALIFORNIA

(By Tina Davis)

Newly unearthed transcripts of Enron Corp. traders reveal employees unapologetically talking about California and its consumers by driving up power prices and exporting power from the state during the 2000–2001 energy crisis.

The transcripts were sent to the Federal Energy Regulatory Commission last week by the Snohomish County Public Utility District No. 1, a public power entity that is seeking refunds for price manipulation that affected the West.

''This latest evidence provide the impetus for FERC to finally bring meaningful rate relief to the West Coast electric consumers who were the primary victims of Enron's

fraudulent schemes,'' said Mike Gianunzio, general counsel of Snohomish PUD.

Two Democratic Congressmen from Washington, Reps. Jay Inslee and Rick Larsen, last week called on FERC to strip Enron of its market-based rate authority retroactively. The congressmen argued that by revoking the company's market-based rates on June 25, 2003, FERC failed to establish the punishment from the moment Enron began gaming the market.

The transcripts largely provide yet more evidence that Enron was engaged in several sophisticated trading strategies aimed at driving up prices and congestion, in order to reap millions from the California and western power markets.

In perhaps the most damning portion of the transcripts, a person identifying himself as ''David up at Enron'' calls an employee of El Paso Electric and asks if that company can shut down a unit.

''. . . There's no much, ah, demand for power at all and we're running kind of fat. Um, if you took down the steamer, how long would it take to get it back up?'' David asks.

''Oh, it's not something you want to just be turning on and off every hour, let's put it that way,'' the El Paso employee responds.

After ascertaining that the unit could be brought up within three to four hours, David says, ''Well, why don't you just go ahead and shut her down, then, if that's OK.''

Later in the conversation, David says that ISO hasn't ''told us anything. We're just kind of assuming that some of this stuff's going to get cut again and—we're running fat enough to where he shut down the, ah, steamer when we take—there'll be a net, ah, decrease of about 80 it will be all right to, ah, still meet the load.''

That day, Dec. 4, 2000, the ISO declares a Stage 2 emergency, indicating that reserve levels have fallen below 5 percent for the day.

A spokesperson for El Paso confirmed the conversation took place, but said it occurred at 1 a.m., when the state had an ''overabundance of power in the market.'' Tereza Sousa said she did not know if the power was restored to the state in the afternoon, when peak demands hit, but she said El Paso had an agreement that called for Enron to market its generation for off-peak hours in the West.

El Paso Electric later reached a settlement agreement with staff of the Federal Energy Regulatory Commission as well as California officials over its role in the state's power crisis. That deal, opposed by Snohomish, included a $15.5 million payment from El Paso and the surrender of its ability to charge market-based rates for two years.

At one point, the transcripts capture Bob Badeer, head of Enron's California trading desk in Portland, saying the ''best thing'' for California would be an earthquake. ''. . . Let that thing float out to the Pacific and [give] 'em candles. . . . They should just bring back horses and carriages, lamps, kerosene lamps. . . .

Kevin McGowan, at one time the director of coal trading for Enron, asks Badeer: ''So the rumor's true? They're takin' all the money back from you guys? All those money [sic] you guys stole from those poor grandmothers in California?''

Badeer responds: ''Yeah, grandma Millie, man. But she's the one who couldn't figure out how to vote on the butterfly ballot.''

''Yeah,'' says McGowan, ''now she wants her money back for all the power you've charged right up—jammed right up her for $250 a megawatt-hour.''

Another phone conversation includes talk of exporting power from the state. Hearing of a Stage 2 emergency called by the California Independent System Operator, a speaker identified only as ''Matt'' says, ''They're on the ropes today. I exported like a 400 [megawatts].

''Wow,'' the other voice, identified as Tom, says.

''I bought it all. I'll see you guys—I'm takin' mine to the desert,'' Matt states.

''em, right?'' adds Tom.

''I think those gamblers in Las Vegas need the power more than you,'' says Matt.

Later on Tom tells Matt, ''It's going good for you. Just keep exporting the'' ''Yeah,'' says Matt. ''That's what we do. Every day, we just export, export, export.''

In another conversation, Enron's Tim Belden, the former head West Coast energy trader, is questioned by what seems to be another Enron employee trying to figure out how to book the revenues from western trades.

Explaining the sales, Belden tells the other person, that Richter (believed to be Jeffrey Richter, head of Enron's Western Power Division) ''makes between one and two [million dollars] a day, um, which never shows up on any curve shift, where he just buys it from the day-ahead. He just . . . California. . . . He steals money from California to the tune of about a million—''

The other person interrupts, ''Will you rephrase that?''

Belden: ''OK, he um—he arbitrages that California market to the tune of a million bucks or two a day.''

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman's time has expired.

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

My good friend from Michigan misspoke when he said that the Senate has rejected this legislation. He knows full well the Senate has not even voted on this legislation. They have used parliamentary procedures in the Senate to force a supermajority vote just to get the bill to a vote, and they have not overcome that 60 vote supermajority to get to the floor. So the Senate indeed has not rejected this legislation. They have yet to vote on it. We wish they would vote on it.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. McCRERY. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank my good friend for yielding to me. Is that rejection or not?

Mr. McCRERY. No, Mr. Speaker, it is not. They have not had an up-or-down vote on this bill, and that is a fact.

Reclaiming my time, Mr. Speaker, this legislation before us today would promote vital improvements in our energy infrastructure while diversifying our economy's sources of energy. The bill's provisions are indeed the same as the incentives the House approved in the conference report on H.R. 6 by a bipartisan vote of 246 to 180, and those measures still merit enactment today.

This bill addresses crucial needs in our infrastructure by promoting new electrical and gas transmission capabilities through accelerated depreciation, promoting production of new low sulfur diesel fuels, and by improvements in the tax rules governing electric utilities. Infrastructure is indeed not very exciting, but it is important. The ability to produce power will mean nothing if we cannot upgrade our ability to get energy to those who need it.

This bill also extends and expands incentives for the production of energy from alternative sources. This bill provides tax incentives for producing electricity from solar, wind, and biomass, for the production of clean fuels from farm waste, and the incentives we agreed upon last year to extend tax credits for ethanol and biodiesel production. These incentives are as important to promoting diversity of supply today as they were when we passed this bill earlier on. The incentives for alternate sources are coupled with the robust package of incentives for the production of coal, oil, and natural gas, which we still need for our energy in this country.

Finally, House Members can take pride in the incentives in this bill to conserve energy and to promote cleaner power, from incentives to create cleaner-burning coal products, produce more efficient cars, and to clean up the air from coal-burning power plants to the incentives the bill provides to make buildings far more efficient in their use of energy. This bill includes measures that encourage prudent use of our resources.

Mr. Speaker, once again this House ought to pass this bill, send it to our colleagues across the Capitol, and hope this time that those who would block this legislation indeed allow an up-or-down vote and let us see how it goes. I predict they would pass this bill. It is a good bill. We ought to pass it today again.

Mr. SWEENEY. Mr. Speaker, I rise today in opposition of H.R. 4503, the Energy Policy Act of 2004. While I wholeheartedly understand the need for a national energy policy, I cannot in good conscience, support this legislation.

I am a proponent of tax incentives to spur growth, both in our economy, and in different sectors of our Nation's energy industries. The promotion of renewable forms of energy is a responsible move in many ways. It diversifies our energy supply, which curbs demand and lessens our dependence on foreign oil. Moreover, these renewable forms of energy are environmentally friendly, reducing emissions which prevent pollution, such as acid rain, from contaminating our lakes and forests. However, I feel there is much room for improvement in this bill. Certainly, more steps must be taken to control our Nation's gasoline prices and prevent massive blackouts, such as the blackout last year in the Midwest and Northeast.

Clearly, the most pressing concern I have with this legislation is the MTBE (methyl tertiary butyl ether) liability waiver. In one town in my district alone, Hyde Park, New York, there are nearly 100 homes with water contaminated by MTBE. Some of these homeowners are considering filing liability lawsuits against the MTBE manufactures, and some have already reached settlements with these manufactures for cleanup. However, the retroactivity provision of this bill will negate their arguments made in these claims. Furthermore, there are over 14,000 MTBE sites awaiting cleanup throughout New York State. This will, undoubtedly, transfer the liability from the

manufacturers to the taxpayer. Why should we adopt such a dangerous policy in a time when we call for fiscal responsibility? I stand in clear opposition of this issue.

Mr. Speaker, I hope this Congress will consider the aforementioned points on this legislation and we draft an energy bill that is both responsible and effective.

Mr. SMITH of Michigan. Mr. Speaker, our dependence on foreign energy leaves American consumers at the mercy of events occurring all over the world, from OPEC production decisions to increases in demand in China and India to terrorism in Saudi Arabia to incipient dictatorship in Venezuela. Reducing our dependence would ease the unpredictable swings in oil prices that now cause such havoc with both family budgets and the larger economy. As Director of Energy at USDA, I served on President Nixon's Oil Policy Commission during the 1970s Arab oil embargo, and I can tell you that this problem is greater today. There are no easy and simple answers.

We can make significant progress, but we have to go about it by making energy independence a national priority and by making investments in many key scientific areas. That's why I supported the energy bill the House passed last year and why I am supporting this legislation. This bill would increase conservation, encourage the use of domestic clean coal, permit greater domestic oil production, add to research into new energy sources, and expand the use of ethanol, biodiesel, biomass, and other renewable energy sources.

As Chairman of the Science Research Subcommittee, the bill includes amendments I offered that were put in the bill, including nitrogen fixation, nuclear power research, clean coal research, and school bus emission reductions. Section 962 of the bill supports research and development programs on biological nitrogen fixation, including plant genomics research. Today's nitrogen fertilizers are made from natural gas. We now have the technology to develop and enhance plants to put nitrogen in the soil. This section of the bill will reduce natural gas consumption and in turn will lower farmers' costs.

This bill contains important provisions to increase domestic fuel production, improve homeland security, and encourage the production of renewable fuels like hydrogen and ethanol. Currently, 2.5 billion gallons of ethanol are put into the American gasoline supply. With this new legislation, 5 billion gallons will be blended in by 2012. Ethanol is an oxygenate and is good for reducing pollution and lessening our dependence on imported fuels. We can grow it in abundance in our own fields every year. However, current ethanol technology production needs a continued tax break. Ethanol is only profitable with efficient production when you use the corn by-products. One bushel of corn makes 2.6 gallons, and 90 percent of ethanol is produced from corn. About 1.7 billion bushels of corn will go towards ethanol under this bill. By guaranteeing that 5 billion gallons of ethanol will be used, American farmers and ethanol producers can invest with confidence that, for at least the next 10 to 15 years, ethanol investments will pay off. By increasing ethanol usage, this bill bolsters corn prices.

Agreement on a modernized energy policy focusing on our nation's innovative strengths in science and technology and a reduction on our reliance on the hostile and politically unstable Middle East for fuel will help achieve energy self sufficiency and improve our country's economy and security for decades to come.

Mr. SHAYS. Mr. Speaker, protecting our environment and promoting energy independence are two of the most important jobs I have as a Member of Congress. Unfortunately, the legislation before us today is another missed opportunity to reduce our dependence on foreign oil, lower gasoline prices, promote energy efficiency and conservation, and improve our air, land and water quality.

We had a chance to devise a forward-looking energy policy that would have increased fuel efficiency, prioritized conservation, made polluters, including MTBE producers, pay for harming our environment, and advanced a renewable portfolio standard. Instead what we have is quite a bad bill.

I fail to understand why the major thrust of the bill's tax provisions involve further subsidizing the fossil fuel industry, rather than providing incentives for conservation and renewable sources of energy. These are enormously profitable industries operating in a time of record energy prices. Clearly, these profits demonstrate the market has already provided the fossil fuel industries with sufficient incentive to increase production.

Instead of creating a balanced energy policy that provides incentives to make renewable energy more affordable and widely available, we are making fiscally irresponsible and environmentally-reckless decisions for the benefit of a few profitable industries that don't need this kind of help from taxpayers.

I strongly oppose a provision in the bill that allows for the permanent activation of the Cross Sound Cable. In doing so, the bill subverts the regulatory process and ignores sound environmental policy.

I also oppose provisions in this bill related to the transmission of electricity. For instance, the Energy Policy Act allows the Federal Electric Regulatory Commission (FERC) to preempt state sitting authority when it is determined that a high-voltage power line is of "national significance." The fact is FERC arbitrarily gets to make that determination.

While I find the bulk of this bill environmentally-shortsighted, I am pleased it does not include provisions to open the Arctic National Wildlife Refuge to oil and gas exploration and drilling. In my judgment, it would be far better to develop prudent and lasting renewable energy sources than to risk irreparable damage to the wilderness of one of North America's most beautiful frontiers.

I look forward to the day when we will have an opportunity to vote for a fiscally-prudent, environmentally-responsible national energy policy. Today is not that day.

Mr. VAN HOLLEN. Mr. Speaker, this week we are going to be asked to vote—in some cases, for a second time—on a package of misguided and previously discarded energy initiatives we are alternately told will enhance our Nation's energy independence, provide price relief at the pump and create good paying jobs for those still looking for work in the Bush economy. If only that were true.

From the shrouded memos of the Cheney Energy Task Force to the most recent audio revelations of rampant profiteering at the trading desks of Enron, we can now see clearly that the approach embraced by this Administration and embodied in these proposals is a policy process run completely amok. Unfortunately, one need not rely solely on history to reject this legislation. A straightforward evaluation of its merits leads inexorably to the same conclusion.

Take energy independence. We all have an interest in moving away from our current reliance on foreign oil. But according to the Bush Administration's own Energy Information Administration (EIA), the energy conference report before us today will have non appreciable impact on reducing demand for foreign petroleum—allowing oil imports to jump a staggering 82.9 percent by 2025, only slightly lower than the 84.8 percent rise expected under current projections.

And what about gasoline prices? The same EIA analysis concludes that gas prices will actually be higher with this legislation than without it—increasing 10.3 percent by 2025 under the bill, compared to an 8.2 percent rise with no action.

As for all those jobs purportedly waiting for out of work American if only Congress passes this bill, the nonpartisan Center for Economic and Policy Research reports: "Republican claims that their energy bill will create one million jobs are not credible on their face . . . The number of jobs affected by the bill will certainly only be a small fraction (almost certainly less than one tenth) of the size claimed by Republicans."

What's going on here? If we're not credibly enhancing our nation's energy independence, battling prices at the pump, or creating the next generation of high-tech, high-wage energy jobs, what in the world are we doing? Given the enormous size of our current budget deficit, along with the hefty $31 billion price tag on the energy bill alone, the taxpaying public has a right to know.

Notwithstanding my serious objections to the priorities reflected in the bills before us, I sincerely believe this nation needs a comprehensive energy policy. For that reason, I will be supporting the common sense provisions in the Democratic motion to recommit. But frankly, I would do more.

Rather than drilling in the Arctic National Wildlife Refuge (ANWR)—an enormously environmentally destructive exercise expected to yield the equivalent of about 6 months of oil some 10 years from now—I believe we should increase the corporate average fuel economy (CAFÉ) standards for cars, SUVs and light trucks to 40 MPG. According to the national Academy of Sciences, a 40 MPG CAFE standard is feasible with existing technology, and conservative estimates place the energy savings at a multiple of the amount of recoverable oil in the ANWR. As an added benefit, consumers would save billions at the pump, and localities would be significantly aided in their efforts to comply with the Clean Air Act.

Additionally, I think it is foolhardy to talk about formulating a national energy policy without reference to that policy's potential implications for global climate change. So long as fossil fuels are part of our energy mix, we will be contributing to the ongoing carbon buildup in the earth's atmosphere. For that reason, Mr. GILCHREST, Mr. OLVER and I offered an amendment at the Rule Committee directing the federal government to establish a comprehensive, principle-based, date-certain national climate change policy along with a national database for registering greenhouse gas emissions. The language we suggested

was far more modest than the Climate Stewardship Act legislation we have introduced this Congress and, in fact, passed the Senate by a non-controversial voice vote in 2002. Nevertheless, on a bipartisan basis, we went to the Rules Committee—because we believe that the day for denial on this issue is over, and because we felt it was important to get this particular conversation started. Unfortunately, our amendment was not made in order.

Finally, I think it is high time we stop paying lip service to energy conservation, energy efficiency and renewables—and start investing seriously in the green technologies of tomorrow. We should invite business, labor and the environmental movement to construct a new forward-looking energy policy for the 21st century—one that rewards innovation; propels American dominance in the global marketplace; moves us credibly in the direction of energy independence; safeguards our environment; creates hundreds of thousands of new, domestic, high-skill, high-wage jobs; and incentivizes the production and consumption of ever more efficient products and services.

Mr. Speaker, we as a nation have a choice to make. We can embrace the majority's vision of watered down environmental protections paired with hefty subsidies for the mature, highly profitable, and yes, polluting, industries of the 20th century. Or we can craft a new, more dynamic energy policy that meets both the serious challenges and the substantial opportunities of the 21st century. That is the vision I will be fighting for, and I invite my colleagues on both sides of the aisle to do the same.

Ms. BALDWIN. Mr. Speaker, today, the House of Representatives will disprove the old saying ''the third time's a charm.'' Three times in the last three years, this House has brought an energy bill to the floor with the charge of reducing our dependence on foreign oil and charting our nation's future energy course. And three times this House has failed miserably in drafting a bill that meets these goals.

My constituents in Wisconsin and the rest of America are starting to think Congress has not only lost its long-term memories, but its short-term memory as well. After all, rolling burnouts along the coast of California three years ago, a massive blackout that shadowed much of the northeast last summer, and skyrocketing prices at the pump right now, should be motivation enough to compel Congress to pass comprehensive energy legislation. Sadly, it has not.

The four energy bills on the House floor today are more for political show rather than good-faith efforts to meet America's current and future energy needs. Their sole intent is to put the blame for having a stalled energy bill on the shoulders of Democrats, and to provide evidence to big energy lobbyists that they have done what was asked of them. I believe the reason past energy bills have not been signed into law, and the reason this one will not either, is because our President and House Republicans have ignored the real energy problems facing our country and allowed special interests to come before the nation's best interests. This is government at its worst.

I think it may be helpful to do a quick recap of some of the reasons why Congress has been unable to get an energy bill to the President's desk. The first energy bill gave oil companies $50 billion in tax subsidies to give them more incentive to drill for oil and gas. Continuing their record profits from the year before obviously wasn't incentive enough.

The last energy bill (and the identical one on the floor today) included many of these same subsidies, but added millions more for ''pork'' projects to Members' congressional districts to help muster additional support for the bill. For example, the bill includes $180 million to build an ''energy efficient'' Hooters Restaurant in Louisiana.

Ultimately, the bill stalled because the Republican leadership insisted on giving liability protection to manufacturers that produce the fuel additive MTBE. MTBE helps vehicles burn fuel cleaner, but also causes widespread groundwater contamination. The provision would shield MTBE manufacturers from paying for the $29 billion worth of damage they knowingly caused in 36 states, and would even provide $750 million in taxpayer dollars to help them ''transition'' to another line of work. I do support a provision in the bill that would provide more incentives to use ethanol to replace MTBE.

High fuel prices are hurting consumers everywhere. However, there is nothing in this week's energy bill that would lower these prices anytime soon. Almost $8 of the increased price per barrel of crude—or about 30 cents per gallon of gasoline—is directly related to the market's fears about violence in the gulf region and our difficulties in Iraq. While OPEC's decision to boost oil output will help meet the demands of China's economic surge and the U.S.'s rebounding economy, consumers shouldn't expect prices to fall dramatically during the busy summer travel season.

Since gas prices wouldn't be affected anytime soon even if the current energy bill was signed into law today, the bill is primarily about what our energy policies will be tomorrow and will into the future. I believe there are two different courses we can take.

The first course continues our reliance on finite natural resources and mistakenly assumes that we can reduce our dependence on foreign oil even though the U.S. has only 3 percent of the world's oil reserves. This course calls for no political will to harness American ingenuity to develop technology that makes our fuel more efficient and healthier for our environment. This course is simply more drilling. It continues the way of our past energy policies and inspires no one except CEOs at Chevron, Exxon Mobile, and BP.

The second course is much different, and is the one I believe we must take. It requires our Nation to ''think big'' and make difficult choices. We can give electric utilities tax credits to increase the amount of energy they produce from wind and other alternative sources. Ask almost any electric utility executive—if you give them incentives to use coal and gas they will, if you give them incentives to use renewable they will. To me, it's an easy choice to make.

Some legislators have proposed a sort of ''Apollo-like project'' to reduce our dependence on foreign oil. This undertaking would call for much more investment into the development of alternative and renewable fuels, fuel-efficient technologies, and other measures to conserve energy. While this undertaking would be expensive, I believe it is something this Congress should consider. These energy sources would be entirely under our control: no terrorist could seize them; and no cartel or foreign government can play games with them.

It is my hope that Congress will come to its senses, ''think big'', and address our nation's current energy needs while confronting its future challenges head-on. The energy bill on the floor this week does none of these things despite being over 1,000 pages long and taking hundreds of hours to draft—possibly making it one of the biggest wastes of energy in recent memory.

Mr. STARK. Mr. Speaker, I rise in strong opposition to the Energy Policy Act, the U.S. Refinery Revitalization Act, and the Renewable Energy Project Siting Improvement Act.

Billions of dollars in last-minute industry giveaways couldn't save the energy bill when we voted on it for the second time last November, so I guess the Republican Leadership is hoping that the third time is a charm. This is what now passes for legislating: declare ''energy week,'' bring up the exact same bill with a different number, and add a couple others that by all accounts have no effect on the problems they purport to solve.

We all agree that gas prices are too high and that we need to bring stability to the energy market; but, not surprisingly, the Energy Information Administration found that giving billions of taxpayer dollars to oil companies won't have any effect on what consumers pay.

It gets worse. Because the subsidies couldn't pass on their own merits, the Republican Leadership threw in an MTBE waiver and ethanol mandate to buy votes. Under this legislation, our municipalities would be stuck with a $29 billion to clean up MTBE contamination, and drivers in California could pay up to 9.6 cents more per gallon for ethanol that neither saves energy nor reduces smog.

What passes for investment in renewable energy in this bill is the repeal of the excise tax on diesel fuel for railroads and inland waterway barges and a tax credit for nuclear power production. I'd call that conserving corporate profits, not energy.

The Energy Policy Act is one of the worst examples of cynical, industry-driven legislating I have seen in Congress. Yet just when we thought every bad idea had been rolled into one big bill, industry has two more: waive environmental protections in disadvantaged communities for refinery construction and change government oversight of renewable energy projects from best alternatives to a no options, yes-or-no on what industry wants to build.

If you kicked out the industry lobbyists and asked economists and energy experts what would lower gas prices, they'd tell you to make a significant investment in renewable energy research, reduce the number of fuel blends in the country, and raise the fuel efficiency standards of cars and SUVs. If we made the SUV standard the same as it is for cars, we'd save one million barrels of oil per day and reduce our dependence on foreign oil by ten percent. None of these bills contains these simple, effective changes.

On behalf of my constituents in California, who pay among the highest gas prices in the country; on behalf of our environment, on behalf of our energy security, and on behalf of the old-fashioned notion that science and reason should have something to do with our national policies, I vote no on these industry giveaways.

Mr. LEVIN. Mr. Speaker, it is unwise to waste energy. It is also wrong to waste time. But somehow the House Leadership has found a way to waste both time and energy by bringing this misguided bill before the House.

We have a problem with energy in this country today. We import more than half the oil we use. The price of gasoline has soared with the rapid run up in oil prices over the last year. These energy price hikes hurt consumers and threaten to reignite inflation and lead to higher interest rates. In addition, our electricity transmission system is antiquated and prone to failure. Just last summer, the largest power blackout in U.S. history plunged tens of millions of Americans into darkness. We need to take immediate action on electricity reliability legislation to prevent this from happening again.

And what is the response of the House of Representatives? Today we are taking up the same flawed legislation the House passed last year that met with bipartisan opposition in the Senate because the bill was loaded with special interest provisions and billions of dollars of industry subsidies. It would be one thing if all these subsidies resulted in dramatically increased U.S. energy production or reduced energy consumption, but according to a recent analysis by the Energy Department's Energy Information Administration, this is not the case. The EIA analysis concluded that passage of this legislation would likely result in "negligible" changes in U.S. energy production, consumption, imports and prices.

If the House of Representatives is serious about dealing effectively with energy policy, passing this flawed retread energy bill is not the way to get the job done. We can do much better than this.

The SPEAKER pro tempore. The gentleman's time has expired. All time for debate has expired.

Pursuant to House Resolution 671, the bill is considered read for amendment, and the previous question is ordered.

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

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

MOTION TO RECOMMIT BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DINGELL. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Dingell moves to recommit the bill H.R. 4503 to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. FRAUDULENT OR MANIPULATIVE PRACTICES.

(a) UNLAWFUL ACTS.—It shall be unlawful for any entity, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails to use or employ, in 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, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) APPLICATION OF FEDERAL POWER ACT TO THIS ACT.—The provisions of section 307 through 309 and 313 through 317 of the Federal Power Act shall apply to violations of section 1201 of this Act in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 2. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC. UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

"SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

''(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

''(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of section 204, 301, 304, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

''(c) PREVIOUS FERC ACTION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that was taken before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

''(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.''.

SEC. 3. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 304 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

''(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

''(2) Section 201(f) shall not limit the application of this subsection.''.

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

''(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.''.

SEC. 4. TRANSPARENCY.

(a) DEFINITION.—As used in this section the term ''electric power or natural gas information processor'' means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, or cooperative bank, if such bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) PROHIBITION.—No electric power or natural gas information processor may make use of the mails or any means or instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas;

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information;

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity;

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas; and

(F) assure equal regulation of all markets involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) RELATED COMMODITIES.—For purposes of this section, the phrase ''purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas'' includes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is excluded from regulation under the Commodities Exchange Act pursuant to section 2 of that Act.

(d) PROHIBITION.—No person who owns, controls, or is under the control or ownership of a public utility, a natural gas company, or a public utility holding company may own, control, or operate any electronic computer network or other mulitateral trading facility utilized to trade electricity or natural gas.

SEC. 5. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking ''$5,000'' in subsection (a) and inserting ''$5,000,000 for an individual and $25,000,000 for any other defendant''

(2) By striking ''$500'' in subsection (b) and inserting ''$1,000,000''.

(2) By striking subsection (c).

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended as follows:

(1) By striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''.

(2) By striking ''$10,000 for each day that such violation continues'' and inserting ''the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation''.

(3) By adding the following at the end thereof:

''(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

''(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

''(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

''(A) involves the purchase or sale of electricity, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

''(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or selling or purchasing electric energy at wholesale in interstate commerce;

''(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

''(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

''(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

''(4) Such entity has willfully violated any provision of this Act.

''(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

''(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

''(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

''(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

''(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

''(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

''(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

''(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

''(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.''.

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

''(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the

transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

''(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

''(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

''(A) involves the purchase or sale of natural gas, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

''(B) arises out of the conduct of the business of transmitting natural gas in interstate commerce, or the selling in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

''(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

''(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

''(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

''(4) Such entity has willfully violated any provision of this Act.

''(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

''(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

''(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

''(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

''(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

''(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

''(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

''(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

''(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.''.

SEC. 6. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating pursuant to a claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 7. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Financial Accounting Standards Board shall submit to the Congress a report of the results of its review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 8. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

''(g) RULES AND PROCEDURES TO PROTECT CONSUMERS OF PUBLIC UTILITIES.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, and any affiliate of, such public utility company, and no public utility shall acquire or own any securities of the holding company or other affiliates of the holding company unless the Commission has determined that such acquisition or ownership is consistent with the public interest and the protection of consumers of such public utility.''.

SEC. 9. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: ''In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission shall establish such earlier refund effective date as is necessary to provide a refund of any rate or charge that is not just and reasonable, as determined by the Commission. To the extent necessary to achieve the purposes of this section, the Commission shall initiate new proceedings, including investigations, and issue appropriate refunds.''.

(2) By striking the second and third sentences.

(3) By striking out ''the refund effective date or by'' and '', whichever is earlier,'' in the fifth sentence.

(4) In the seventh sentence by striking ''through a date fifteen months after such refund effective date'' and insert ''and prior to the conclusion of the proceeding'' and by striking the proviso.

SEC. 10. ACCOUNTS AND REPORTS.

Section 318 of the Federal Power Act is amended by adding the following at the end thereof: ''This section shall not apply to sections 301 and 304 of this Act.''.

SEC. 11. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

''(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any change in the activities and characteristics relied upon by the Commission in granting such public utility the authority to sell electric energy at market-based rates. If the Commission finds that:

''(1) a rate charged by a public utility authorized to sell electric energy at market-based rates is unjust, unreasonable, unduly discriminatory or preferential,

''(2) the public utility has intentionally engaged in an activity that violates any other rule, tariff, or order of the Commission, or

''(3) any violation of section 101 of the Energy Markets Fraud Prevention and Consumer Protection Act of 2002,

the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.''.

SEC. 12. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by inserting the following new section at the end thereof:

''SEC. 215. ELECTRIC RELIABILITY.

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

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) 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 facilities and the design of planned additions or modifications to such facilities 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 facilities or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the elements 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 elements.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power 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 facilities within their control.

''(6) The term 'transmission organization' means a regional transmission organization, independent system operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

''(2) 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) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization (ERO). 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 (e)(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 bulk-power 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) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization 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 Electric Reliability Organization 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 Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a 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)(2) 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) ENFORCEMENT.—(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 electric reliability organization 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 electric reliability organization 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 electric reliability organization 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—

''(i) an independent board;

''(ii) a balanced stakeholder board; or

''(iii) a combination independent and balanced stakeholder board.

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis 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) CHANGES IN ELECTRICITY RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the Electric Reliability Organization. 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) RELIABILITY REPORTS.—The Electric Reliability Organization shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) COORDINATION WITH CANADA AND MEXICO.—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 Electric Reliability Organization in the United States and Canada or Mexico.

''(i) SAVINGS PROVISIONS.—(1) The Electric Reliability Organization shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) This section does not authorize the Electric Reliability Organization 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 Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the Electric Reliability Organization.

''(5) The Commission, after consultation with the Electric Reliability Organization and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed or 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 Electric Reliability Organization, 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) APPLICATION TO ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.''.

SEC. 13. STRATEGIC PETROLEUM RESERVE CONTRACTS.

Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by inserting after subsection (b) the following new subsection:

''(c) Whenever there is a substantial increase in the market price of a petroleum product which is subject to a contract for delivery to the Reserve, the Secretary shall, to the extent possible under the contract or through renegotiation of the terms and conditions of the contract (including terms and conditions relating to the delivery date), take such actions as are necessary to protect consumers or achieve the objectives described in subsection (b).''.

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes in support of his motion.

Mr. DINGELL. Mr. Speaker, I yield 2½ minutes to the distinguished gentlewoman from California (Ms. ESHOO), who is cosponsor of the motion to recommit.

Ms. ESHOO. Mr. Speaker, I thank the very distinguished ranking member of the Committee on Energy and Commerce for yielding me this time.

I rise today in support of this motion to recommit. And, Mr. Speaker, I do so for the following reasons. One of the great things about our country is that we recognize when mistakes have been made, when the American people have suffered an injustice, a wrong, and we stand to make it right. That is what this motion to recommit is all about.

Two weeks ago the people of our country heard all over the airwaves the disgraceful and disgusting tapes, the audio tapes of the Enron traders and how they planned and how they executed the gouging and the manipulation of the energy market in the Pacific Northwest and in California. Time and again we have sought amendments. Time and again we have gone to the Speaker of the House. Time and again the three delegations from the Pacific Northwest and California have attempted to make this right.

Today in this energy bill we ask that it be recommitted, and with this recommittal we will direct the Federal Energy Commission that is charged with the consumers' best interest to refund the dollars that were robbed out of greed from the American people. We are a great and good Nation. We can correct this. That is what the motion to recommit is all about. Every single Member of this House, Republicans and Democrats, have a stake in this. If they vote against the motion to recommit, they are saluting those that robbed American consumers. So stand with them. Do the right thing.

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

I urge my colleagues to vote for the motion to recommit. It is very simple. It is passive. It is something which the Senate, I believe, would consider; and it is something which will be accepted by the American people and which will help with the energy problems.

First of all, it contains energy anti-fraud provisions to avoid a recurrence of the widespread unchecked fraud that rocked Western power markets in recent years. The motion requires FERC to refund overcharges, updates various provisions of the Federal Power Act, and gives the Federal Energy Regulatory Commission authority to deter and to punish market manipulation.

It has electric reliability provisions. The motion includes what is perhaps the most widely supported provision in the bill before us today, making the rules that govern the operation of the interstate electric grid mandatory and enforceable. The U.S.-Canada Task Force report called this the most important step that this Nation can take to prevent future blackouts.

It includes legislation which relates to the Strategic Petroleum Reserve; and regardless of how the Members feel about drawing down the Strategic Petroleum Reserve to address prices, an idea which, by the way, I oppose, no one can quarrel with the premise that the Department of Energy should manage additions of crude oil to the reserves in such a way as to minimize

costs and to avoid exerting upward pressure on oil prices when markets are awry.

The administration has been inexplicably reluctant to defer deliveries of crude to SPR during the current market run-up in oil prices, despite the fact that it has been done before. The motion directs the Secretary to pursue this option and to utilize futures and other devices which would enable him to address this.

All of us, I think, here in the House favor certain aspects of H.R. 4503, but the good provisions are being held hostage to other aspects that are controversial, provisions which are clearly special interests and, quite frankly, will not pass the sniff test. It is too late in the session to continue playing chicken with this issue. The time has come to enact carefully drawn provisions in addressing the Nation's most immediate needs. This motion addresses the three most important major energy problems, market manipulation, electric reliability, and high gasoline prices, in ways that Members should be able to agree upon.

□ 1545

We can pursue the goal of a broader energy bill later in a better fashion, hopefully a more bipartisan way, in which the Members of the Congress will have an opportunity to address it with proper amendments on the floor or to attend the meetings of the conferees, which were foreclosed to Members on the minority side in a most curious and, I would note, unparliamentary fashion.

I urge my colleagues to endorse and support and vote for the motion to recommit. It is a good piece of legislation. It converts a bad piece of legislation into something which will work, and it has a chance of being considered and passed in the Senate. I urge my colleagues to vote for the motion to recommit.

Mr. BARTON of Texas. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, I wish to say as I rise in opposition that I am in total support of the Dean of the House, the gentleman from Michigan, in his efforts to help develop a comprehensive energy plan for our country, but I cannot support this particular motion to recommit.

It is true that some elements of the motion to recommit would be helpful. There is an increase in civil fines for wrongdoing, but that is already in the pending bill that is before us. In fact, the bill that is before us would increase the fine to $1 million.

The pending bill before us bans round trip trades. The gentleman's motion to recommit does not ban round trip trades.

The pending bill before us would encourage the development and siting of new transmission lines. The motion to recommit does not do that.

The pending bill before us protects native load in those States that wish to do that. The gentleman's motion to recommit does not protect native load.

The pending bill repeals the Public Utility Holding Company Act so we get more capital into our energy markets. That is one area where the gentleman from Michigan and I have a policy difference. He does totally oppose the repeal of PUHCA, and that is just an honest difference of opinion.

The pending bill before us would reform PURPA, which allows cogeneration facilities to sell their surplus electricity into the power grid. The motion to recommit does not do that.

There is no provision in the motion to recommit for clean coal technology. There is no provision in the motion to recommit for hydrogen fuel cell research. There is no provision in the motion to recommit for investment tax credits for wind power and solar power and other alternative energy resources.

There is no provision in the motion to recommit to incentivize the construction of the Alaska natural gas pipeline, where we have 40 trillion cubic feet of natural gas that is not being used at the current time because we cannot get it to the Lower 48 States.

In fact, the gentleman's motion to recommit has not one molecule of new energy in the motion to recommit. So while it may be well-intended, I do not think it is a substitute for a comprehensive energy bill, which, I will point out, has passed the House in its current form by a vote of 246 to 180, which was a bipartisan vote.

The motion to recommit in a similar form failed before this body 193 to 237, although I must admit that that particular motion to recommit did not have the section on the Strategic Petroleum Reserve. I have tried to understand the section on the Strategic Petroleum Reserve and I will take the gentleman from Michigan at his word that the intent of the SPR language is to provide some protection for price flexibility. But as a layman; i.e. myself, reads it, it is unclear to me that it actually does that. But I will take him at his word, that if he says that is what it does, I will stipulate that is what it does.

In summary, while the motion to recommit is well intended, it is not a substitute for a comprehensive energy bill. In a form very similar to what it is today, it has failed before this body 237 to 193, and I hope when we come to the vote, if it comes to a rollcall vote, that once again it will fail, with all due respect to my good friend from Michigan.

Mr. Speaker, I yield back the balance of my time, and urge a no vote on the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DINGELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes as ordered on the question of passage of H.R. 4503 and the question postponed earlier today on the passage of H.R. 4513.

The vote was taken by electronic device, and there were—yeas 192, nays 230, not voting 11, as follows:

[Roll No. 240]

YEAS—192

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—230

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger

Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Majette
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Bell
Carson (IN)
Carson (OK)
Collins
DeMint
Deutsch
Diaz-Balart, L.
Ehlers
Millender-McDonald
Pascrell
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1614

Messrs. NEUGEBAUER, NUNES, REGULA, PUTNAM, and BRADY of Texas changed their vote from ''yea'' to ''nay.''

Ms. HARMAN, and Messrs. HOEFFEL, LANGEVIN, ORTIZ, MEEKS of New York, and MOLLOHAN changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DINGELL. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 244, nays 178, not voting 11, as follows:

[Roll No. 241]

YEAS—244

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, M.
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Evans
Everett
Feeney
Ferguson
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Ryun (KS)
Sandlin
Schrock
Scott (GA)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wynn
Young (AK)
Young (FL)

NAYS—178

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Bass
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Ford
Fossella
Frank (MA)
Frost
Gephardt
Gilchrest
Green (WI)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ose
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Petri
Price (NC)
Rahall
Rangel
Rohrabacher
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Waters
Watt
Waxman
Weiner
Wexler
Wolf
Woolsey
Wu

NOT VOTING—11

Bell
Carson (IN)
Carson (OK)
Collins
DeMint
Deutsch
Diaz-Balart, L.
Ehlers
Millender-McDonald
Pascrell
Watson

□ 1624

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RENEWABLE ENERGY PROJECT SITING IMPROVEMENT ACT OF 2004

The SPEAKER pro tempore (Mrs. BIGGERT). The pending business is the question of the passage of the bill, H.R. 4513, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 229, nays 186, not voting 18, as follows:

[Roll No. 242]

YEAS—229

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Evans
Everett
Feeney
Flake
Foley
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Rush
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Towns
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wynn
Young (AK)
Young (FL)

NAYS—186

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Ford
Frank (MA)
Frelinghuysen
Frost
Gephardt
Gerlach
Gilchrest
Gordon
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu

NOT VOTING—18

Bell
Carson (IN)
Carson (OK)
Collins
Cummings
DeMint
Deutsch
Diaz-Balart, L.
Ehlers
Millender-McDonald
Norwood
Pascrell
Ros-Lehtinen
Sanchez, Loretta
Tauzin
Tiahrt
Toomey
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1632

So the bill is passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COLLINS. Mr. Speaker, I was not present for rollcall vote 236, a vote on the previous question on H. Res. 671; rollcall vote 237, H. Res. 671 a rule to provide for consideration of the Energy Policy Act (H.R. 4503) and the United States Refinery Revitalization Act (H.R. 4517); rollcall vote 238, a vote on the previous question; rollcall vote 239, H. Res. 672 a rule providing for the consideration of Environmental Review for Renewable Energy Project (H.R. 4513) and Arctic Coastal Plain and Surface Mining Improvement Act (H.R. 4529); rollcall vote 240, a motion to recommit the Energy Policy Act (H.R. 4503); rollcall vote 241, final passage of the Energy Policy Act (H.R. 4503) and rollcall vote 242, final passage of Renewable Energy Project Siting Improvement (H.R. 4513).

Had I been present, I would have voted "yea" for rollcall votes 236, 237, 238, 239, 241, and 242. I would have voted "nay" on rollcall vote 240.

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the chamber today during rollcall votes No. 236, No. 237, No. 238, No. 239, No. 240, No. 241, and No. 242.

Had I been present, I would voted "Aye" on No. 240, and "Nay" on No. 236, No. 237, No. 238, No. 239, No. 241, and No. 242.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

□ 1630

COMMUNICATION FROM THE HONORABLE WALLY HERGER, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mrs. BIGGERT) laid before the House the following communication from the Honorable WALLY HERGER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 15, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena for documents issued by the Trinity County Superior Court.

After consultation with the Office of General Counsel, I have determined that partial compliance is consistent with the privileges and precedents of the House.

Sincerely,

WALLY HERGER
Member of Congress

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on the additional motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken tomorrow.

THE GASOLINE PRICE REDUCTION ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4545) to amend the Clean Air Act to reduce the proliferation of boutique fuels, and for other purposes.

The Clerk read as follows:

H.R. 4545

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 ''The Gasoline Price Reduction Act of 2004''.

SEC. 2. WAIVER OF FUEL PROVISIONS IN CASE OF FUEL SUPPLY DISRUPTION.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding the following at the end thereof: ''The Administrator may waive the provisions of any applicable implementation plan approved under this subparagraph with respect to a fuel or fuel additive if the Administrator, in consultation with the Secretary of Energy, determines that such waiver is necessary by reason of a significant fuel supply disruption in any area subject to such plan. Such waiver shall remain in effect in the area concerned for such period as the Administrator, in consultation with the Secretary of Energy, deems necessary by reason of such fuel supply disruption. No State or person shall be subject to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this section.''.

SEC. 3. CAP AND REDUCTION OF BOUTIQUE FUELS.

(a) EPA APPROVAL OF STATE PLANS WITH BOUTIQUE FUELS.—Section 211(c)(4) of the Clean Air Act (42 U.S.C. 7545(c)(4)) is amended by adding the following at the end thereof:

''(D) In the case of gasoline, after the enactment of this subparagraph, the Administrator may give a preference to the approval of State implementation plan provisions described in subparagraph (C) if the control or prohibition in such provisions requires the use of either of the following:

''(i) Reformulated gasoline as defined in subsection (k).

''(ii) Gasoline having a Reid Vapor Pressure of 7.0 or 7.8 pounds per square inch (psi) for the high ozone season (as determined by the Administrator).

The Administrator shall have no authority, when considering State implementation plan revisions under subparagraph (C), to approve any fuel or fuel additive if the effect of such approval would be to increase the total number of fuels and fuel additives approved in all State implementation plans nationwide prior to June 1, 2004.''.

(b) CROSS REFERENCE.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding the following at the end thereof: ''After the date of enactment of subparagraph (D) of this paragraph, any State implementation plan revision under this subparagraph involving gasoline shall be considered only pursuant to both this subparagraph and subparagraph (D).''.

(c) STUDY.—The Administrator of the Environmental Protection Agency, in cooperation with the Secretary of Energy, shall undertake a study of the effects on air quality, on the number of fuel blends, on fuel availability, and on fuel costs of the State plan provisions adopted pursuant to section 211(c)(4)(D) of the Clean Air Act. In carrying out such study, the Administrator shall obtain comments from affected parties. The Administrator shall submit the results of such study to the Congress not later than 18 months after the enactment of this Act, together with any recommended legislative changes to the list of fuels in section 211(c)(4)(D), which, if expanded, shall not exceed 10 fuels.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Maine (Mr. ALLEN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

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

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam speaker, I rise in support of H.R. 4545, the Gasoline Price Reduction Act of 2004. This bill cosponsored by the gentleman from Missouri (Mr. BLUNT) and the gentleman from Wisconsin (Mr. RYAN) has three distinct provisions. One, it expressly gives the Administrator of the EPA, or the Environmental Protection Agency, in consultation with the Secretary of Energy, waiver authority with respect to fuels and fuel additives requirements in State implementation plans in the event of a significant fuel supply disruption.

The second section of the bill would give the Administrator of the EPA a preference as to which of three types of fuel could be required when considering approval of State implementation plans, while at the same time capping the total number of fuels or fuel additives at the nationwide number in existence as of June 1, 2004, and I believe that number is 48.

The third thing the bill would do would be to require the administrator of the EPA, again in cooperation with the Secretary of Energy, to undertake a study to determine the effect of State plan provisions on air quality, on the number of fuel blends, on fuel availability and on fuel costs. The results of this study are to be reported to the Congress within 18 months after enactment, with recommendations on legislative changes to the list of preferred fuels which, if expanded, shall not exceed 10 fuels.

Over time, we have specialized our fuels in nonattainment areas in different regions of the country to the point that every talking head on every news show speaks of the Balkanization of the fuel supply; the dividing of our fuel blends into smaller and smaller groupings.

This bill will not provide overnight relief, but it would represent a good start to limiting the proliferation of fuels so numerous that it takes a high-tech society just to keep up with them.

I would urge the passage of this important legislation, H.R. 4545, the Gasoline Price Reduction Act of 2004.

Madam Speaker, I ask unanimous consent that the gentleman from Missouri (Mr. BLUNT), the primary author of the bill, the majority whip, a member of the Committee on Energy and Commerce on leave, be able to control the balance of the time that I normally would control.

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

There was no objection.

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

I thank the chairman for yielding and look forward to the discussion of this bill with my friends and others on the floor.

Mr. Speaker, this is Energy Week, and I think most American families can tell us that what they really want to see is some common sense at the gas pump. Every summer we see wild spikes in the prices of gasoline at stations nationwide. This summer is one of the worst on record. Prices in some areas are peaking at $3.11 per gallon, according to my California colleagues.

Communities across the country can use close to 45 different blends of gasoline. These so-called specialty boutique fuels are specially formulated as these fuel requirements are necessary to meet air quality standards in certain areas. To make matters even worse, even more special blends of these special blends are often required, depending upon the season.

When supply cannot meet demand for one of these boutique blends, prices spike, sometimes overnight, and families and commerce suffers. States use numerous blends and grades of fuel to meet clean air standards. This approach results in islands within our country that use a gasoline used by no other community. These areas prohibit other blends of gasoline, even in times of shortage. In other words, if they run low they cannot run next door to borrow a little fuel that is easily available somewhere else. Instead, consumers see tight supply and rising prices.

Mr. Speaker, in my home State of Missouri, a person can fill their gas tank in Springfield, where I am from, and drive 3½ hours to St. Louis. When they get there they would be filling their tank up again, but probably after they have burned all the gas that they bought somewhere else in that community. They would buy a different type of gasoline, but if St. Louis ever runs short of gasoline, they cannot go just right across the river to East St. Louis, Illinois. They cannot use the gasoline that is available 25 miles from downtown, outside of that attainment area, but of course the people that buy gas in those places can drive to St. Louis easily.

The essential Balkanization of the country in terms of fuel prices just does not make any sense. So the gentleman from Wisconsin (Mr. RYAN) and others and I have introduced the Gasoline Price Reduction Act to do something about this. Our legislation would

assure a more reliable supply of gas nationwide.

Essentially, we do four things. One is we create a waiver system if the refinery that serves a community for some reason is not able to produce gasoline.

We cap the current number of fuel blends at a number around 45, and I say around 45 because there are so many blends out there one of the things we need to do is figure out exactly how many blends there are today and cap that number at that rate.

We also encourage EPA to come up with three recommended blends that they would use in the country and, in the meantime, to have a study that would really determine the number of fuel blends that could be made available in a more efficient market, in a more efficient way.

I hope our colleagues join us today, not only in the healthy discussion of this bill but also as we move to pass this legislation.

Madam Speaker, I need to go off the floor for a second, and I ask unanimous consent that the gentleman from Wisconsin (Mr. RYAN) be allowed to manage my time.

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

There was no objection.

Mr. ALLEN. Madam Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Speaker, if we had a rule prohibiting false or misleading short titles on legislation, I would offer a point of order that the Gasoline Price Reduction Act being brought before the body today is a blatant violation of honesty and presentation of legislation because the bill does absolutely nothing to deal with the real causes of the increase in the price of gasoline at the pump.

With this bill the Republicans have identified a problem. Gas prices are too high. The consumers are paying an arm for regular. They are paying a leg for plus, and for their first born they get premium.

We need to do something, says the Republicans. The Democrats agree, but the Republicans have offered up a false solution. They say, let us waive the Clean Air Act. We have 24 million Americans with asthma. We have 8 million children in America with asthma. Is the solution to high gasoline prices waiving the Clean Air Act?

We have a dramatic rise in breast cancer, in prostate cancer in America, much of it environmentally related, what we breathe in the air, but what is the Republican solution to that? They say, well, let us regulate softly and carry a big inhaler. That is the message to the children of our country.

So what is the problem? Well, the Saudi Arabians, of course, took about 1 million barrels of oil off the market a year ago, and we heard just a little whisper from this White House that the Saudi Arabians were playing games with the oil prices in our country. The GAO actually did a study a year ago that indicated that all the oil company mergers in the 1990s led to a dramatic increase in gasoline prices.

Are they investigating all these oil company mergers in America? Are they investigating what the Saudi Arabians are doing? Have we seen those hearings? No. Their answer is that it is the clean air that children are breathing in the United States that is the problem.

We hear the complaints from the Republican Party, the air is too clean, the water in America is getting too clean; that is the problem, not what is going on in OPEC, not what is going on with the oil companies. What is their solution? Their solution is whenever there is a significant fuel supply disruption that the Environmental Protection Agency and the Bush administration, every polluter's ally EPA, is able to waive the Clean Air Act requirements to protect the children's air in America. That is what this bill is, the Gasoline Price Reduction Act. The Increase in Pollution Children Breathe Act is what it really is.

Now, we say to the Republicans, we say to the White House, will you please deploy the Strategic Petroleum Reserve of 600 million gallons that the American people have purchased as a weapon against price gouging by the oil companies and by OPEC? They say, oh, no, that would be a disruption in the free market if we actually use the oil in the Strategic Petroleum Reserve to drive down prices.

□ 1645

Their answer is to increase pollution in the air that the children breathe, that the seniors breathe in our country. That is what this bill is all about.

And how long will the EPA have to keep this reduction in clean air protections on the books? Forever, indefinite. So we could have the worst possible supply disruption, and this administration says it will never deploy the Strategic Petroleum Reserve, but will immediately take the Clean Air Act off the books.

So the language is actually whenever the EPA, in consultation with the Secretary of Energy, deems necessary by reason of such fuel supply disruption. So GOP, it used to stand for Grand Old Party, now it stands for Gas and Oil Party, now it stands for Gang of Polluters. Their solution to high gasoline prices is to pollute, not to go to OPEC, not to go to the oil companies. It is to pollute.

This bill is absolutely atrocious. I beg Members, please do not be misled. This bill is nothing more than something that will result in more and more children in our country needing inhalers. Members should not vote for it. There is a direct correlation between the amount of pollution that goes in the air and the amount of disease we see in our country. We do not have to find this false solution to deal with the problem when it is so obvious what is going wrong in the oil markets, our OPEC allies.

Mr. RYAN of Wisconsin. Madam Speaker, I yield myself such time as I may consume.

That was a very interesting speech. I do not think the speech really applied to the bill we have on the floor, though. I would first mention that this waiver authority is nothing different than the current waiver authority the EPA has. Last year when we had a pipeline break in Arizona when they could not get a lot of gasoline, the EPA waived certain parts of the Clean Air Act so they could get gas supplies to meet the demand that was occurring because they had a huge supply shock.

Now, I would like to set this issue up in the following way. What this bill does is recognize the fact that we can have cheap gas and clean gas in America. The goal here is to improve the Clean Air Act, make it function better and make our gas more affordable while maintaining every ounce of environmental standards that we already have on the books. This bill will help make it easier to meet the Clean Air Act, but let me put this issue in perspective.

When we started the Clean Air Act, we had a good idea. The idea in the Clean Air Act at the time was if your area has dirty air, you need to clean it up. One of the things you need to do is burn cleaner gasoline through your cars. A very good idea. The problem is when they wrote this law, they did not think of the fact that if they allow cities, counties, States to select their own kinds of gasoline, that they would cause this huge problem we have today. Here is the problem.

Please, Madam Speaker, look at this chart. What this chart shows is the map of America. It looks like a piece of modern art. It shows all of the different blends of gasoline that are required to occur in the summer in America. There are 16 different base blends of gasoline which translate today into 45 different fuels in America.

However, we have a pipeline and refinery infrastructure system in America that has not been upgraded since the 1970s. No new refineries have been built since 1976, and when we built that system we had one kind of gasoline flowing through America. Now because of the Clean Air Act, a very good law, but one that does not take into account this problem, when we go from winter-blend gasoline, which is basically conventional gas, to summer-blend gasoline, we move from one kind of gas to 45 different blends of gasoline required around America.

When we have our refinery capacity running at 96 percent, any little hiccup in supply, any little refinery fire that has happened all across America, a problem with the pipeline breaking like in St. Louis or Arizona, we have huge supply shortages and giant price spikes. What is more is all of these different blends of gasoline, we can have four different blends by going from Green Bay, Wisconsin, to St. Louis,

Missouri. In Green Bay, they may have conventional gas; in Kenosha, they may have reformulated gas. Springfield, Illinois, may have a low RVP conventional gas. East St. Louis may have 7.0 RVP. Across the river in West St. Louis, they may have 7.2 RVP.

The problem is these gas lines are not fungible, even though in Detroit and Chicago and Milwaukee and St. Louis and Kansas City and Minneapolis we have the same environmental requirements. They are out of compliance with the Clean Air Act. They have the same requirements with respect to the fuel standards they have to achieve, but they all have different blends of gasoline, proprietary blends of gasoline.

What we want to do is bring common sense to this system. What this legislation does is it simply says we are going to have now a preferred list of fuels that people can choose from, local governments can choose from when they select their new gasoline blends to come into compliance with the Clean Air Act. We are capping the amount of boutique fuels so we do not proliferate more blends, but especially now when we go to the new 8-hour ozone requirement and we now recognize the fact that we have 42 areas of America, as we see on this chart, which have 45 different fuel blends, we are adding 82 new areas of America this year that are going to be out of compliance with the Clean Air Act because of the new 8-hour ozone standard.

As we add these new 82 areas, do we want to have that many more different kinds of fuel in America? No, we simply want to bring some common sense to the system so that when all these new areas of America have to come into compliance with the Clean Air Act, we want to give them guidance so they can pick from a list of preferred clean blends of fuel that are compliant with the Clean Air Act that are standard blends of fuel so we can standardize not only the kinds of fuels we use in America, but stabilize our supply of gasoline in America.

Why does that matter? Because gas is priced like any other commodity. It is priced based upon its supply. If we can stabilize the supply of gas, we can stabilize the price of gasoline and bring down the price of gasoline.

What the intent of this legislation is to do is to make sure in the short term if we have huge supply problems, a refinery fire or a pipeline break, we have the authority to meet those supply problems; but in the medium term and long term, make sure we standardize our blends of gasoline so we can comply with the Clean Air Act and have inexpensive, affordable, clean-burning gasoline.

What I believe this bill will actually achieve at the end of the day will be less expensive and more clean gas around America, even in areas that do not have to have clean gasoline. I think this is going to help us clean up our air, and it is going to help us have affordable gasoline.

Madam Speaker, I reserve the balance of my time.

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

First, perhaps not in the dramatic fashion of the gentleman from Massachusetts (Mr. MARKEY), but I do want to point out that this is probably the finest title I have seen to a bill in a very long time, the Gasoline Price Reduction Act. That is a marvelous title. If it did not have any text, I would vote for it. If we changed the text so it actually reduced gasoline prices, I would vote for it, and so would my colleagues on this side; but that is not the case.

Let me begin with a couple of responses to the gentleman from Wisconsin (Mr. RYAN). He said this legislation is not different from the current waiver authority of the EPA. We disagree entirely. It is true there are occasions when EPA has not enforced what would otherwise be violations of the Clean Air Act, but that is enforcement discretion. What this legislation does is it puts into legislation language unlimited waiver authority for the EPA administrator.

Let me go through a couple of other points here. Part of the problem with this bill is process. This bill was never considered by the Committee on Energy and Commerce. I got onto the Committee on Energy and Commerce so we could deal with these important types of energy and environmental issues, but here we did not even bother. This was simply brought to the floor by the leadership. We have no testimony from the Bush administration indicating we need this bill. We have no testimony from industry to explain how this bill would address our ever-increasing demand for fuel. We have seen no research from the Energy Information Administration estimating the effect of this bill on fuel prices. We have no studies by the EPA quantifying the human health impact of this Clean Air Act repeal; and that is what it is, a repeal of critical portions of the Clean Air Act.

The Washington Post today had a telling comment. Here is the quote from The Post today: ''Some are calling this Congress' answer to high gasoline prices. But if this is the answer, maybe it is time to ask whether Congress even understands the question. The Gasoline Price Reduction Act would give the EPA administrator permission to waive the Clean Air Act for unlimited periods of time at its own discretion in the case of a gasoline supply disruption.''

Once again, the majority thinks that the Clean Air Act costs too much, but the Clean Air Act is not the problem. We agree that a gasoline supply disruption such as a refinery or pipeline shutting down unexpectedly can cause significant shortage of needed fuels. As a result, the EPA already may issue short-term waivers for some fuels under current regulations, not these, but some fuels. The administrator can and has used this regulatory authority in an appropriate manner, and that is why it has not been challenged.

This authority, this legislation, gives the administrator broad authority to issue waivers that undermine the Clean Air Act. The bill does not define ''significant fuel supply disruption,'' but it allows the administrator to define the term.

Furthermore, here is a reading from the bill: ''Such waiver shall remain in effect for such period as the administrator, in consultation with the Secretary of Energy, deems necessary by reason of such fuel supply disruption.''

There is no limit on the length of the waivers; therefore, the administrator has free rein to waive cleaner burning gasoline or diesel requirements in the Clean Air Act anywhere at any time. This bill would make enforcement of the Clean Air Act optional. That is what it does. It makes enforcement of the Clean Air Act optional.

Now it also does cap the number of boutique fuels that may be approved to the number that currently exist. Frankly, there are about 43 or 45 different blends and we agree, we agree that that number should be capped at around that number because there are too many blends, and it does make it difficult for refineries to meet demand in different States at different times. But this is not the way to go. This language that the gentleman from Wisconsin (Mr. RYAN) referred to has never been reviewed in a hearing. There is no way to know whether the provision will have the intended effect.

We conclude on our side of the aisle this bill is about politics, not sound legislation. The title is wonderful; the text undermines the Clean Air Act in fundamental ways; and the Clean Air Act is simply too important to our citizens to allow this important piece of legislation to pass.

Madam Speaker, I reserve the balance of my time.

Mr. RYAN of Wisconsin. Madam Speaker, I yield myself 1 minute to respond.

Madam Speaker, this is the same kind of waiver authority they already have under law. This is included in the Bush administration energy plan. This was in the Bush administration energy policy recommendations to solidify and consolidate boutique fuels. We have had numerous studies on this issue. A very comprehensive study was done on this issue by the Environmental Protection Agency in 2001, which recommended doing exactly this. We had another study by the National Association of Convenience Stores recommending doing exactly this. Plus, we have already had multiple sources of testimony from gasoline marketers, from gasoline wholesalers, all talking about the need to consolidate the fuel blends. So this has been done based upon studies; this is a policy endorsed by the Bush administration. This is a policy talked about, vetted, and had hearings on for 3 years now.

Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN), a cosponsor of this legislation.

Mr. GREEN of Wisconsin. Madam Speaker, I thank the gentleman for yielding me this time and salute him for his tireless advocacy on behalf of lower gas prices.

Our drivers have been through the ringer in recent years. Gas prices are far too high. Some of the reasons for those high prices do lie overseas. This legislation is not the answer by itself. There is so much more we should do.

□ 1700

But some of the problems lie here at home. In fact, they lie in this very body. We have cobbled together a patchwork system of hopelessly complicated, confusing and complex rules and regulations that make sense only to bureaucrats. Take a look at this map here that we have in front of us, this little colored patch area on the map that tells you that the blend of gasoline used from Milwaukee, Wisconsin to Chicago is unique in the entire world. There is no other place on the face of the Earth that uses it. What that means is when there is a disruption in the pipeline, or in the refining process, the price of gasoline skyrockets overnight. It makes our gasoline more expensive. It makes our prices more volatile. Simply put, under this crazy system, this Stalinist system, supply cannot move to meet demand.

Madam Speaker, it is very clear today our drivers want relief. They are turning to us for help. It seems obvious to me that some people in this body are willing to respond to those drivers who are asking for help simply with fearmongering and scare tactics. This legislation does not weaken the Clean Air Act. It makes it work. It offers real help to our drivers, particularly drivers in these areas who are suffering because of government imposed barriers. Shame on us. We are the ones that have made gasoline more expensive in these areas. We are the ones who have made prices more volatile. It is time for us to take this commonsense approach to lowering the price.

Mr. ALLEN. Madam Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Madam Speaker, I thank the gentleman for yielding me this time on this very important piece of legislation which I am astounded to know that we did not hear in our committee. The energy bill before us and the other legislative activities this week in my opinion are a scam. Republicans will try to mislead Americans, to try to hide their connections to the oil industry. H.R. 4545 will do nothing to reduce volatility in the gas markets, nothing to help America become independent and, most importantly, do nothing to help working families cope with the high cost of gasoline.

While working families shell out money so they can get their kids to school, get themselves to work and buy their groceries, big oil companies are striking gold with high gas prices. The administration and the Republican-led Congress are letting their partners in crime rob working families and seniors blind.

In the first 3 months of 2004, ChevronTexaco quadrupled its earnings from the first 3 months of 2003. British Petroleum reported a 165 percent increase in profits. Conoco-Phillips reported a 44 percent increase in profits. Exxon-Mobil reported a 125 percent increase in profits. Yet here we are today not asking why companies are raking in enormous profits and why consumers are having to pay the highest prices in the last 23 years.

Why are we not discussing these commonsense things to reduce gas prices for Americans today? One of the things we can do is investigate bad faith practices in the market. In California, gas prices went up faster than the Federal Trade Commission anticipated they possibly could. In my own district in Los Angeles, gasoline prices have been steady at $2.39, upwards of $2.50 a gallon for the last 2½ months. We saw something similar with electricity prices also in 2000 during the western energy crisis. Again that situation was ignored as well.

We cannot let the situation repeat itself because working families and businesses will once again become the victims. But just as with the western energy crisis and even the Northeast blackout, those in charge of the Republican-led Congress are choosing to ignore the real situation. Instead of helping to lower gas prices, ensure stability in the market, guarantee American independence and set America on a responsible course of energy policy, the Republicans provide us with legislation that undermines the public process, risks public health and does nothing to help working families.

This process is a sham, and it is a shame that the American public will have to suffer once again.

Mr. ALLEN. Madam Speaker, I am pleased to yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Madam Speaker, H.R. 4545 is a well-meaning but ineffective attempt to address a serious problem, the problem of multiple blends of fuels required under our Clean Air Act. I believe the map that was shown earlier illustrated that we do have too many boutique fuels in our country to be able to have it and with the dwindling refinery supply to be able to do all this mixture of fuels. Supplies can be tight during high demand and prices will rise. But waiver authorities for specific areas and capping the number of boutique fuels are not a solution when compared to the provisions in the comprehensive energy bill we just passed. EPA already gives out waivers from the oxygenate requirement. The comprehensive energy bill contains a comprehensive study of the boutique fuel options and markets. The comprehensive energy bill contains limited liability for MTBE. If you are worried about supply and prices of boutique fuels, support the comprehensive energy bill. This legislation is an unnecessary distraction when the real issue should be the bill that this House just passed.

H.R. 4545 pales in comparison with the comprehensive energy bill when it comes to dealing with boutique fuels.

Mr. RYAN of Wisconsin. Madam Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. I thank the gentleman for yielding me this time.

Madam Speaker, I rise in support of this legislation. American citizens every summer are assaulted by increased prices at the pump. They need to know that one of the factors that drive those summer prices up is switching from one blend of gasoline for the whole country to more than 40 blends of gasoline for the whole country. And to say that we are repealing the Clean Air Act in this bill is absurd. The Clean Air Act is a big bill. It covers a whole bunch of issues. This is a small fraction of it. This recommendation to go over to three different types of cleaner fuels for the summer months is a recommendation that was made by a GAO study and it is a recommendation that is being currently put forward by the industry and it will help keep prices down and it will not cause the air to get dirtier or kids to get asthma. This is an absolute ridiculous assertion. It is the right thing for us to do for our Nation.

The American consumer is suffering right now. Many families on a limited budget are having difficulty making ends meet. This is the right thing for us to do.

Mr. RYAN of Wisconsin. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. OSE).

Mr. OSE. Madam Speaker, I find it ironic to stand here on the floor and I am not one that is so lucky to be on the Committee on Energy and Commerce but I am one that spends weekends at home every week. I am amazed to stand here on the floor and hear the comments from the other side which offer absolutely no solution whatsoever to an abatement of the price of gasoline that we pay today. None whatsoever. There is an old saying in Washington that oftentimes legislation comes forward in search of a problem. The response from the minority party today is that they come forward with testimony in search of a policy. They have nothing. At least we are over here trying. The testimony we have heard this afternoon about the boutique fuels across the country, there is no refuting that. That is an absolute fact. It is directly related to an outgrowth of the passage of a policy that has been refined and perfected by the Members of that side of the aisle when they were in the majority. The people of America are paying a price in the form of higher prices for gas on the basis of policies

they put into place. We are trying to reverse those. We are trying to increase refinery capacity. We are trying to reduce the number of boutique fuels that exist across this country and increase the fungibility of gasoline between markets so that people in Maine or people in California or people in Wisconsin or Missouri can all buy gasoline that is essentially the same.

They have not come forward with a single material improvement to the infrastructure that exists today. They resist us on fixing the permitting process for refiners. They resist us on fixing the permitting process for pipelines. They resist us on fixing the permitting process to bring gasoline into the country in the form of refined products.

They resist, they resist, they resist. I understand their policy. I applaud them for it. There is an election every 2 years. I hope the voters are paying attention.

I rise today to discuss H.R. 4545, the "The Gasoline Price Reduction Act of 2004," introduced by Messrs. BLUNT and RYAN. I welcome this legislation today because I share their concerns over high gasoline prices and the proliferation of boutique fuels.

Today's gasoline market is comprised of many types of gasoline that serve different regional markets to meet varying Federal and State environmental requirements. At last count, there were approximately 19 different types of gasoline in the U.S. Arguably, there are almost 60 types if you take into account that each is made into three different octane blends. Although these numerous fuel blends are seen as an efficient means of cleaning the air, the increase in boutique fuels adds a level of complexity into production, distribution, and storage of gasoline.

The result of this targeted approach to air quality has been to balkanize the gasoline market and to create gasoline market islands. The primary examples are in my home State of California and the Chicago/Milwaukee area, in which the required gasoline blends are unique, and only a limited number of refineries make the products. Small disruptions in production, such as refinery outages or pipeline ruptures, can severely limit the supply of gasoline in these areas, causing artificial shortages and price spikes.

Over the last four years, my Government Reform Energy Policy Subcommittee has held four hearings on gasoline markets (in June 2001, April 2002, July 2003, and May 2004). What I have learned from these hearings is that we should not be in the business of mandating what goes into a gallon of gasoline. Instead of dictating gasoline components, we should set high performance standards for what comes out of the tailpipe and let industry meet them.

Anyone who knows anything about the gasoline problems in California can tell you that the de facto ethanol mandate in California is significantly affecting gasoline supply and is not necessarily improving the environment. In fact, using ethanol in California may actually degrade air and water quality. Despite ample scientific data, and letters from the California delegation, including two I sent as Subcommittee Chairman in February 2004 and April 2004, the Environmental Protection Agency has yet to approve California's oxygen waiver request, which is environmentally and economically sound.

From these hearings, I have also learned that several measures need to be taken to address the gasoline supply issues in the U.S. One measure that is key to increasing supply is the expansion and enhancement of the entire petroleum infrastructure, which is currently stressed and at its limits. Addressing the constraints and bottlenecks within the petroleum infrastructure, which includes refineries, pipelines, storage tanks, and port facilities, is important because each component of the system must function properly and efficiently to ensure consumers receive an adequate and affordable supply of gasoline.

Given the ever-widening gap between gasoline supply and demand in the U.S., we should look at ways to simplify the various infrastructure permitting processes and to reduce the costs and uncertainty associated with Federal and State regulations. If we fail to do so, we will be faced with increasing imports, increasing gasoline prices, or both. I venture to say that no American would be pleased with these outcomes.

Additionally, we must consider ways to reduce the regulatory burden facing the refining industry. Refiners will need to invest about $20 billion in the next decade to comply with Federal and State environmental regulations. As a result, less capital will be available for refinery maintenance and expansion, and some smaller refineries may close. We must examine ways to achieve our desired environmental results without putting companies out of business.

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

I certainly hope the voters are paying attention as well, because we do have a policy. We do have a plan. We presented it. Part of it was in the motion to recommit where we made a proposal dealing with the SPR. This debate is a good example of why this is not a can-do Congress, this is a can't-do Congress, because this legislation is not that difficult. If we had had hearings, if it had been worked out on a bipartisan basis in the committee, it would come to the floor and pass overwhelmingly, because what we are really arguing about is whether or not the waiver that is given to the EPA Administrator in this legislation should be unlimited as it is in this legislation or whether it should be time limited. That is the core of the debate that we are having right now, and the fact that this bill has been brought to the floor with no limit on the waiver authority of the EPA Administrator, no consultation with us, no hearings, that is what has led to our opposition.

Let me run through a few things. The majority speakers have been saying we have got a problem with the number of boutique fuels. So do we. We think we need to contain the number of boutique fuels that are out there. It is reasonable to work that out. We do not object to doing that. But we do have a policy and it is real clear. Let me tell you what should be in this legislation if we were going to actually reduce gasoline prices and not just have legislation with a title that says we should reduce gasoline prices.

We need legislation that would hold refineries accountable for market manipulation and market concentration. We need legislation that would at least deal with the question of how to think about and how to use the Strategic Petroleum Reserve when gas prices are so high. We need action by this administration that would create stability in the Middle East and other oil-producing regions. We certainly do not have that now. We need to help families increase the efficiency of their homes and thereby reduce oil use. There is nothing of that in this legislation. This legislation does not require or create incentives to increase fuel efficiency in our vehicle fleet, which is at its lowest level since 1980. That issue has been brought up in front of the Committee on Energy and Commerce time and again to increase and improve CAFE standards and save fuel and it has been voted down.

This legislation does not invest in hybrid and hydrogen technology. I drive a hybrid vehicle. I get 45 miles to the gallon. I tell all my constituents, next time you buy a vehicle make sure that you pay attention to how efficient it is in terms of fuel. This legislation does not extend the tax breaks for the purchase of high efficiency vehicles. It does not end the tax breaks for Hummers and large SUVs. It does not reduce heavy truck idling. It does not improve air traffic management.

What we have got is what we said at the beginning. We have got a title. We have one of the best titles for legislation ever to come before this Congress, at least this year. We just do not have the text to go with it.

Just a couple of additional points. There was talk about we have held hearings. The truth is there have not been any hearings on this legislation. Sure we have had hearings on energy issues but not on this waiver authority put forth in here. There was one other comment I wanted to respond to. This legislation, one speaker said, is so small, it is so short that it cannot possibly repeal the Clean Air Act. All you need to do is to give the EPA Administrator the authority, the simple authority to waive, on a broad base, parts of the Clean Air Act and you have made enforcement of the Clean Air Act optional. It does not take much to undermine the Clean Air Act. It does not take much to do that in a way that risks the health of our population. That is what this legislation does. That is why we believe it should be defeated.

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

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself 30 seconds. This does not give any extra waiver authority to the EPA that it does not already have.

□ 1715

This bill does not do a lot of the things he mentioned. It does very few things. What the intent of this bill is, is to have a preapproved list of fuels by the EPA for areas to choose from that

are clean fuels so that we consolidate the fuel blends we have in America. That is it. And then study and make sure we are doing it right. And if the study says there is another way to do it better, we will do that. That would be the fourth study we would have on this matter.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. BLUNT), the majority whip and cosponsor of this legislation, for the purpose of closing.

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding me this time and for the debate.

Both my friend from Wisconsin who feels strongly about this and my friend from Maine who has come to the floor, we have had a good debate on part of this bill, but only a very small part of this bill.

I would like to make a couple of points. Some of the things that my friend from Maine pointed out that we needed, we agree that we need many of those things. In fact, that is why we have the energy bill. We voted on it again today. We voted on it in both of the last two Congresses. We clearly do need energy policy. We encourage all those on this side of the building to work hard to try to get that done. We have voted on an energy conference report now, and now we voted on a bill today that was very much like it.

This brings one significant, but not very complicated, issue to the floor. I think, in fact, the center focus of this bill is so unarguable that nobody really argued about it. We have got too many fuel blends. Refineries have needlessly become profit centers in the distribution because there are too many fuel blends out there. Nobody really challenged that concept.

I heard a lot of discussion about one principle, the waiver principle, whether that was good or not. Let me tell the Members the waiver is very good if the refinery that services their area is somehow shut down. In fact, the waiver is desperately good, and we do not have that kind of ability now to just simply allow families and commerce to continue when one of these very unique fuels is suddenly unavailable anywhere. That is what the waiver is supposed to take care of.

But really the more central focus of this bill I did not really hear any real debate on. I am encouraged by that. I hope as we move forward with all kinds of energy legislation that we take strong consensus that there are too many fuel blends. We need a study to determine how we get a smaller number, and then we need to look for ways to encourage that smaller number of blends to become the number of fuel blends that communities look at in the future. We can make this system much more efficient. We can make it work more effectively. This is not designed to solve all the energy problems in the world; but if we adopted this bill, it would reduce gas prices. That is what the title calls for. I think we moved this debate forward today, and I appreciate everybody's participation that was part of it.

Mr. DINGELL. Mr. Speaker, I rise in opposition to H.R. 4545, the "Gasoline Price Reduction Act." I urge my colleagues to vote against this bill, which relaxes Clean Air Act requirements and which has not been the subject of any hearings or markups by the Committee on Energy and Commerce.

Because of the lack of hearings or markups, we have no idea whether the bill is actually necessary or whether its effect on gasoline prices will be positive or negative. We have no idea of the extent of its impact on air quality, except to note that its effect clearly cannot be positive.

This bill is very poorly drafted, which reflects the lack of input or review by anybody except its sponsors. We do not know what the benefits and cost of this bill will be and we do not have any analysis from the executive agencies, such as the Department of Energy and the Environmental Protect Agency (EPA), who could tell us whether it is a good or bad idea.

The bill allows EPA to waive Clean Air Act requirements in the event of a "significant fuel supply disruption." Yet the meaning of this term is not supplied. Nor are there limits placed on the length of the waiver or on the overall detriment to air quality that could occur. Nothing in the bill would require anyone to either analyze or ameliorate the impacts on air quality in any way, regardless of how easily or inexpensively that could be done.

The bill instructs EPA to give "preference" to particular fuels in approving state implementation plans, but what does it mean to give preference to a particular fuel? The bill also sets a cap on the total number of "fuels" in existence as of June 1, 2004. How many fuels is that? What is the definition of a "fuel"? Would this cap apply to more desirable fuels, such as low-sulfur diesel, or to renewable fuels, such as biodiesel or ethanol? How would this bill affect supply, energy dependence, and price structure in particular regional markets, such as Michigan?

High gas prices are of concern to all, but this bill is not the solution. We should examine the possible relationship between "boutique fuel" requirements and gas prices and determine, through regular committee process, an appropriate solution with in put from all interested parties. I would welcome legislation that would lead to cleaner fuels and greater fungibility in the fuel supply.

I urge my colleagues to vote against this bill, and to give the Committee on Energy and Commerce a chance to address these matters properly.

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 4545.

The question was taken.

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

Mr. ALLEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

INTENT TO ENTER INTO FREE TRADE AGREEMENT WITH BAHRAIN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–193)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Consistent with section 2105(a)(1)(A) of the Trade Act of 2002, (Public Law 107–210; the "Trade Act"), I am pleased to notify the Congress of my intent to enter into a Free Trade Agreement (FTA) with the Government of Bahrain.

This agreement will create new opportunities for America's workers, farmers, businesses, and consumers by eliminating barriers in trade with Bahrain. Entering into an FTA with Bahrain will not only strengthen our bilateral ties with this important ally, it will also advance my goal of a U.S.-Middle East Free Trade Area (MEFTA) by 2013.

Consistent with the Trade Act, I am sending this notification at least 90 days in advance of signing the United States-Bahrain FTA. My Administration looks forward to working with the Congress in developing appropriate legislation to approve and implement this free trade agreement.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 15, 2004*.

NATO NEEDS TO AUGMENT INTERNATIONAL SECURITY ASSISTANCE FORCE IN AFGHANISTAN

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

Mr. BEREUTER. Mr. Speaker, following the stirring address of the President of Afghanistan this morning, this Member rises to address the urgent need for NATO to augment the International Security Assistance Force, or ISAF.

This Member cannot overstate how critical the next few weeks will be for the future of Afghanistan and for the credibility of the North Atlantic Alliance. Unless the NATO allies quickly remedy the grave shortfalls in military personnel and equipment, the NATO mission in Afghanistan faces a real danger of failure. There will be no security for the upcoming elections in the hinterland of Afghanistan.

Actually, this is a crucial failure of will, political will, purely and simply. We are not coming up in other countries with the pledged personnel and equipment. Make no mistake about it,

this is a failure that jeopardizes the success of our mission to Afghanistan and jeopardizes the very credibility of the Alliance.

Mr. Speaker, we often say that failure is not an option. Alas, in Afghanistan failure is a distinct possibility, and unless allied leaders in the next few weeks demonstrate the political will to deploy the necessary assets in Afghanistan, failure gradually will become a reality.

Two weeks ago, this Member returned from the NATO Parliamentary Assembly meeting in Bratislava. Recognizing the gravity of the situation in Afghanistan, the leaders of the 26 national delegations—in an unprecedented action—authorized this Member, as the President of the Assembly, to send a letter to our national leaders, expressing the concern of the Assembly and urging governments to provide the necessary resources for ISAF.

Mr. Speaker, this Member will also raise these concerns with those national leaders in an address to the Istanbul Summit later this month. Likewise, the Bush Administration at Istanbul must press our allies to dig deep and find the extra personnel and resources that are needed to make this mission a success.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, no one disagrees that to keep our country secure, we must become independent of foreign fuels, while at the same time we must control the rising energy costs here in our country. Where the disagreement arises is how this should be done.

Today, the House leadership brought up four energy bills in an attempt to look like they are addressing our energy needs. From rehashing a bill that already passed the House not once but twice, that focuses on huge giveaways to big oil and gas companies to a bill that would open up drilling in the arctic refuge, this is nothing more than a sham. None of these bills do anything to promote an energy policy that will keep us secure from terrorism and ensure that our energy needs are met. In fact, opening up the arctic refuge to drilling would increase global oil reserves by only .31 percent. That is right, only 31/100ths of 1 percent. That is less oil than the United States consumes in 6 months.

There has to be a better way, a more intelligent way, a way not rooted in ruthless expediency, but in the values that we hold dear. And there is. I have introduced legislation to create a SMART security platform for the 21st century. SMART stands for Sensible Multilateral American Response to Terrorism. One of the components of SMART is a real strategy for energy independence, especially support for the development of renewable energy sources. Nothing threatens national security more than reliance on Middle Eastern oil.

This reliance cannot be met with drilling in the arctic refuge or with giveaways to big oil and gas companies. We must invest in renewable energy and in conservation. We must increase energy efficiency. Only through decreased dependence on oil will we make ourselves more secure.

Along with decreasing our dependence on foreign oil, we must stop the spread of weapons of mass destruction. Keeping the American people safe must be our highest priority. On that point the President and I agree, but we must avoid equating our security with aggression and military force. Just because one has a hammer, not every problem is a nail. The United States possesses the world's largest hammer in the form of its mighty military, but some situations require a more delicate touch. SMART security calls for aggressive diplomacy, a commitment to nuclear nonproliferation, strong regional security arrangements, and vigorous inspection regimes. The United States must set an example for the rest of the world by renouncing the first use of nuclear weapons and the development of new nuclear weapons.

We must maintain our commitment to existing international treaties like the Nuclear Nonproliferation Treaty, the Comprehensive Test Ban Treaty, the Biological Weapons Convention, and the Chemical Weapons Convention. We must support and adequately fund programs like the Cooperative Threat Reduction Program, which works with the Russian Federation and the states of the former Soviet Union to dismantle nuclear warheads, reduce nuclear stockpiles, and secure nuclear weapons in Russia. And we must replicate these programs in other troubled regions like North Korea and Iran.

Not every country will proactively choose to give up its nuclear program, and we can provide the incentives if we choose. In the long run, negotiating with other countries will keep us much safer than thinking that we can scare them into submission.

The Bush doctrine has been tried. It has failed. It is time for a new national security strategy. SMART security defends America by relying on the very best of America, our commitment to peace, our commitment to freedom, our compassion for the people of the world, and our capacity for multilateral leadership. SMART security is tough, it is pragmatic, and it is patriotic. SMART security is smart, and it will keep America safe.

HUMAN EMBRYO STEM CELL RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, many people have probably seen the recent news coverage about Nancy Reagan's hope to see more funding go to human embryo stem cell research in the hopes of finding a cure for Alzheimer's disease. Indeed, recently Newsweek ran a cover story on this issue.

I am a physician, and I used to care for many patients with Alzheimer's disease, and I know first hand the anguish it causes to lose a loved one or to have a family member with this condition. I have three concerns that I would like to raise about this debate.

First of all, I am concerned that advocates for this embryo stem cell research are unethically playing on the emotions of millions of Americans. Of all the conditions that have been proposed as possibly treatable with stem cells, whether embryonic or adult stem cells, Alzheimer's disease is one of the least likely where stem cells could be useful.

I say this because on autopsy, the brains on Alzheimer's disease patients do not show a pure dropout of neurons. If it was a loss of normal nerve cells, cell therapy might have potential. The fact is the brains of Alzheimer's disease patients typically contain lesions called senile plaques and neurofibrillary tangles. The plaques, which accumulate on the outside of neurons, consist mainly of deposits of a protein called beta-amyloid. Chemical and cellular markers of inflammation are also present.

We need to find out what causes these plaques and how we can prevent them. It is not clear at all if the problem with Alzheimer's disease is treatable with cell replacement therapy. Most experts I have contacted feel that the more promising solution will be early detection, very early detection, and medication to prevent progression and not cell replacement therapy.

Secondly, I am quite concerned that people are being falsely led to believe that it is only embryo stem cells that might have potential here.

Mr. Speaker, the following diseases have been successfully treated with adult stem cells from humans: Parkinson's disease, blindness has been treated, relief of symptom of lupus, multiple sclerosis, and rheumatoid arthritis; the cure of combined immunodeficiency diseases, the treatment of several different types of leukemia, solid tumors, neuroblastomas, non-Hodgkin's lymphomas, multiple sclerosis. Indeed, the list goes on and on.

□ 1730

However, there have been no successful treatments of any humans with embryo stem cells, and, as I have said repeatedly on this floor, they do not have an animal model of successfully treating an animal with embryo stem cells. Indeed, it is unclear if they will ever have clinical usefulness.

Last, I would like to say the President of the United States, George Bush, is unfairly being portrayed in the press as standing in the way of this research progressing. The truth is embryo stem cell research is perfectly legal in the United States today. The debate is who is going to fund this research.

Many of us feel that this research should be funded by private dollars and not funded by the American taxpayer because, number one, it involves the destruction of a human embryo, a human life, and, number two, it is quite unclear if it will ever have any clinical significance. Indeed, some groups, I must say, are engaged in what I believe is deceptive communications on this issue. A case in point I will cite is the Juvenile Diabetes Research Foundation.

The JDRF claims that embryo stem cell research is the most promising research. Their lobbying packet contains in its table of contents ''embryo stem cell research, stem cell research, our best hope for a cure.'' However, JDRF had a $80 million research and education budget. They only spent $3 million on embryo stem cells, which is 4 percent of their budget, but, Mr. Speaker, they spent $15 million, four times as much, 20 percent of their budget, on adult stem cell research.

Why is the Juvenile Diabetes Research Foundation saying that embryo stem cell research has the most potential but they are spending four times as much money on adult stem cell research?

The truth is we have a multi-billion dollar biotechnology industry in America today, and they are spending nothing on this research. The advocates for this research are clamoring to get the American taxpayer to pay for it. In my opinion, that is an insult to the legacy of Ronald Reagan, asking the Federal Government to pick up the tab for something of questionable value, when private industry would reap huge benefits if it really had the potential it did have.

I think President George Bush is making the right move, and we need to support him in this decision.

COMPARING CONGRESS TO THE MOVIE ''GROUNDHOG DAY''

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, here we go again. Lately around this Congress I feel like it is Groundhog Day. I never knew that Bill Murray became a consultant to the Republican Conference. As you know, in the movie Bill Murray's character relived the same day over and over again, and here in Congress we are doing the same.

Take the energy bill that we were just debating so eloquently here. The same bill, nothing has happened to the bill, same bill we took up back in November, H.R. 6. The only thing different is a new number. That is the only thing that is different about this energy bill. It never moved in the Senate, the President has not gotten behind it and gotten it passed or anything. Yet we take up again.

Here are some the things Congress has done just the same, while the American people face higher costs for college education, health care, energy costs, and their pay stubs are not getting any better.

H.R. 4280, medical malpractice bill, same as H.R. 5. We took it up in March of 2003. Nothing happened, but we took it up again.

H.R. 4281, the Association Health Plan bill, the same as the H.R. 660, which originally was taken up in June of 2003, but no action in the Senate.

H.R. 4409, the teacher training bill, the same as H.R. 2211 which we took up in July 2003, but no action in the Senate.

H.R. 4411, the graduate studies bill, the same as H.R. 3076. We took it up in October of 2003, no action in the Senate.

Ironically, there is nothing new here in the Republican plan. Somehow they have decided that motion is better than action, that rather than doing something it is better to look like you are doing something.

As the American people struggle to make ends meet, as they struggle to meet the challenges of trying to send their kids to college, they used to be able to do it with one job, now they need two to educate their children, as the American people struggle to deal with health care costs that have gone up by one-third. It used to be $6,500 for a family of four, now it is $9,000 for a family of four. What do we do? Take up bills that have gone nowhere and are going nowhere, just so it looks like this body is doing something, while you face constant challenges trying to meet the needs and requirements of your family.

Today, the Labor Department reported that consumer prices increased by nearly one point last month, the sharpest increase since January 2001. Since 2000, health care insurance premiums have increased from $6,500 to nearly $9,000. College tuition has on average increased by $1,200 a year the last 3 years in a row. In my home State of Illinois, the average graduate from the State university graduates with a diploma and, on the other side, $15,000 of debts. Who knew on graduation day you get your first Visa bill? Care costs have increased by $2,000, and average yearly gasoline costs by $1,000.

What does the Congress do, the People's House? We take up legislation that we have taken up before that is going nowhere and going nowhere fast. It is Groundhog Day here in this Congress. We have lost nearly 1.5 million private sector jobs since 2000, and family incomes have declined on average 1,500.

The average American household now carries $9,000 in credit card debt and $17,000 in overall household debt. The squeeze has resulted in 1.6 million households declaring bankruptcy in 2003, a 33 percent increase since 2000. The administration's budget, while these challenges are facing the American families, has cut job training, underfunded Leave No Child Behind, the education initiative by nearly 9 billion, and cut housing and home ownership programs.

The American people, in my view, deserve better. Rather than revisiting last year's failed energy bill, we should be working to reduce the cost of energy prices today and natural gas prices. We should be working to reduce our dependence on foreign oil. We should be working to ensure that we increase the Pell Grant, college assistance, the Perkins loans, and ensure that we pass a Higher Education Reauthorization Act.

But we are not going to do that. So what we are going to do is take up medical malpractice, which we took up before, but it is going nowhere. We are going to take up the energy bill that failed to go anywhere, just so you have the impression we are doing something here.

It is Groundhog Day, and Bill Murray has now become a member of the Republican Conference. The American people cannot afford for us to repeat the same mistakes until we get it right, nor should they have to.

Mr. Speaker, President Kennedy once said, ''To govern is to choose.'' From this day forward, we should choose to govern.

NOTHING CONSERVATIVE ABOUT WAR IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, yesterday the biggest news story concerned a car bombing in Baghdad which killed 13 people. Almost all major news outlets reported that immediately following this bombing there was a large anti-American demonstration by Iraqi citizens. They somehow were blaming the bombing on the U.S. and they burned an American flag.

A few weeks ago, just before the release of the Iraqi prison pictures, CNN released a poll of 3,000 Iraqis. That poll found that only 19 percent of the people of Iraq view us as liberators, while more than 70 percent viewed us as occupiers.

CNN found that 78 percent of Iraqis had an unfavorable view of the U.S.

Even worse, at about that same time in another poll taken before the release the prison pictures, the survey found that 82 percent of Iraqis had an unfavorable view of the U.S. This poll was taken by the Coalition Provisional Authority, our own government. In other words, our own poll. It said 82 percent of Iraqis had a bad opinion of the U.S.

This is a country, Mr. Speaker, where we have spent almost $200 billion in the last couple of years. This is a country for which we have done more than any other country has done for another nation in the entire history of the world.

When I led a delegation to Iraq at the end of January, we were proudly told by one general he would have 110,000 Iraqis working for him, or, more accurately, for our taxpayers by July 1, and he controlled only about one-eighth of the population there. Apparently the only Iraqis who have a favorable view of the U.S. are the ones we have working for us.

These people do not appreciate what we have done and are doing for them, and because we have such a huge national debt and such a huge deficit we are borrowing all these billions we are spending there. Some try to say that only a small portion, about $20 billion, is being spent to rebuild Iraq. This is false, or at least very misleading.

Most of what the military is doing there, building roads, bridges, schools, setting up free health care clinics, fixing airports and telephone and power and water systems, would be called foreign aid in any other country. In fact, our operation in Iraq is the most massive foreign aid program in history.

Saddam Hussein was an evil man, but his total military budget was just two-tenths of 1 percent of ours. He was no real threat to us. Harlan Ullman, a columnist for the Washington Times, who started out favoring this war, wrote a few days ago: ''Compared to Hitler and the might of the Third Reich, Saddam was a relatively minor villain. The original reasons for war; namely, weapons of mass destruction and links to al Qaeda, have drifted out of sight.''

Anyone who says it is isolationist to oppose this war is resorting to childish name-calling, rather than a mature discussion of the issue on its merits, or lack thereof.

We should be friends with all nations and help out, in fact lead the way, during humanitarian crises, but we should not get involved in every political, ethnic or religious dispute around the world. This just creates more enemies for us and makes terrorism more likely.

We need to follow a foreign policy of enlightened neutrality that relies on war only as a last resort when there is no other reasonable alternative.

At the first of last week, the Chicago Tribune had a story about a young soldier who had just been killed in Iraq. Just a few days earlier he had called his mother and told her, ''This is not our war. We should not be here.''

When our handover of sovereignty comes on June 30, we should make this a real handover, not just in name only. Deputy Defense Secretary Paul Wolfowitz, the main architect of the war, told the Committee on Armed Services a few months ago we would be in Iraq for 10 years.

I hope not.

Some big companies and some military leaders want us to stay there that long because it means more money for them, but this decision should not be dictated by money. We should declare victory, Mr. Speaker, and begin a phased, orderly withdrawal. We should slowly bring our boys and girls home. We should all hope and pray that no more are killed or maimed for life.

This should not be our war.

Columnist Georgie Ann Geyer wrote recently: ''Critics of the war against Iraq have said since the beginning of the conflict that Americans, still strangely complacent about overseas wars being waged by a minority in their name, will inevitably come to a point where they will see they have to have a government that provides services at home or one that seeks empire across the globe.''

Mr. Speaker, there is nothing conservative about this war in Iraq. We need to start putting our own people first once again and turn Iraq back over to the Iraqis.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

RATE OF ECONOMIC GROWTH OR LACK THEREOF IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, last night on the floor of this Chamber there were two interesting 1-hour presentations, as many of you remember. One was several colleagues from the Republican side, if I recall from Texas, Illinois, Arizona, my State of Ohio, West Virginia, Florida, Indiana and a couple other States, who spoke about the rapid economic growth we are experiencing; how this is, as the Secretary of Commerce said, quoting now, ''It is the best economic climate in my lifetime,'' he said; that ''things were great on the job front; lots of new jobs created, lots of economic prosperity.''

Then there also was a group of people, mostly from my State of Ohio, that told stories of letters we have received from constituents, people saying that their college tuition has gone up sharply, 13 percent at Ohio State, for example; they have lost their drug coverage; their programs for education in their communities have been cut, both by local governments and also State governments, and, thirdly, in some cases the Federal Government.

□ 1745

There was major job loss. Companies like Timken in Ohio, for instance, have lost one out of six manufacturing jobs. But what was curious about the difference in the view of the country is that it is pretty clear my Republican friends kind of all meet in a huddle like a football game and they are all coming out, I do not mean to mix metaphors, but coming out as cheerleaders because they have been sort of instructed by the White House that the only way to win this election is by saying over and over and over and over that this is the best economy we have had in years.

The problem is, and I do not think we are being nay-sayers, I am just passing on, we are all passing on what our constituents in Ohio and Illinois, like the gentlewoman from Illinois (Ms. SCHAKOWSKY) and others, the gentleman from Washington (Mr. MCDERMOTT) and the gentleman from Oregon (Mr. DEFAZIO) here and others are just passing on what our constituents are telling us, that we need to change the direction of this country.

If the cheerleaders on the other side of the aisle, the President's football squad, if you will, that comes out of the huddle, if they continue to talk about how great the economy is, it means that they are not willing to admit the mistakes of the last 3 years in how our economy and our country are going in the wrong direction.

The only way to correct things is to say, well, maybe we are going in the wrong direction and maybe we need to change course. But the President's answer in every single situation, for every bad piece of economic news the President says two things: we need to cut taxes for the 5 percent wealthiest Americans, maybe some of it will trickle down and create jobs. That clearly has not worked. We have lost 2.7 million jobs since he took office. President Bush will be the first President since President Hoover to have lost jobs during his time in office.

And his other answer is more trade agreements like the North American Free Trade Agreement. He wants us to pass the Central American Free Trade Agreement; free trade agreements with Singapore, Chile, Morocco, Australia, the Free Trade Area of America, which will quadruple the number of low-income workers in the NAFTA trade block. He wants us to continue to do that when those policies clearly are shipping American jobs overseas.

Now, those policies, as the gentleman from Ohio (Mr. RYAN) said on the floor last night, those policies clearly help the President's political friends, they help his wealthy contributors; but they are not helping workers in this country.

I do not question the motives of my friends on the other side of the aisle, the cheerleading, for saying this economy is in such great shape. I think they really believe it because they spend their time with the 5 or 10 percent of the people in this country who are doing great, the 5 or 10 percent of the people who see profits going up. They are corporate executives, they are big stockholders, they are getting bigger dividends, they see the stock

market going up in some cases, not very regularly, and so they get tax cuts because they are in the upper 1 or 2 or 5 percent income brackets. So the economy is going well for them. But unfortunately, it is simply not going well for so many others in this country.

I am not here to criticize and to throw cold water on their birthday party, but what I am here for is to say let us change direction, because those economic plans and programs have clearly not worked. For 3 years, the President has gotten whatever he wanted from this Congress in terms of tax cuts, in terms of cutting spending on education and health care and veterans benefits, but the economy and the country are worse off than they were 3 years ago.

In my State, we have lost one out of six manufacturing jobs since George Bush took office. Let me explain sort of what happened. There is a company in Ohio called Timken, T-I-M-K-E-N. It is a major employer and has been a good company for northeast Ohio and Canton, Ohio. It is President Bush's favorite company everyone says. The CEO of Timken, fourth generation, very wealthy family, are some of George Bush's biggest contributors and fund-raisers. A year ago President Bush came to Timken and spoke to assembled workers and mostly management and applauded the company because the workers are 10 percent more productive, a year ago 10 percent more productive than they were the year before, and congratulations to them and to that company for that.

But then earlier this year, Timken put out a news release saying that they enjoyed record sales for the first quarter, all-time record sales for Timken, and they said that they had a 60-some percent increase in earnings per share from a year ago. A week later Timken announced, we are building another factory in China and we are closing our three factories in Canton where the corporate headquarters is and laying off 1,300 well-paid Ohioans.

So that is what we are seeing. We are seeing on this side of the aisle, my Republican friends sort of parroting what George Bush is saying, saying this economy is really great; and we are hearing people on this side tell stories, with facts backing it up, about how we need change because these policies are not working. Clearly the policies are working if you are in the upper 5 or 10 percent, because corporate profits are up, dividends are up, tax cuts are being enjoyed by the 1 or 2 or 5 percent wealthiest people.

But in the case of so many others, there are more people that are receiving, going to food pantries, there are more people who are seeing their college educations going through the roof, the increases in college tuition, there are more people who have seen their drug benefits pulled back or scaled down or eliminated; and it is time that we take a different direction.

In this country when you criticize, you need to say, what do you do in place? We should pass the Crane-Rangel bill, which will reward American companies that manufacture here rather than abroad; instead of giving tax cuts abroad, pass unemployment benefits, and pass a better prescription drug bill.

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extension of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana (Mr. BURTON).

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

There was no objection.

RESTORING FIRST AMENDMENT RIGHTS TO SPIRITUAL LEADERS OF AMERICA ON POLITICAL AND MORAL ISSUES OF THE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I am on the floor tonight because recently we remembered the 60th anniversary of D-Day, World War II. We remembered, we had Memorial weekend, Memorial Day, and then we had the funeral of President Reagan. I think we all remember the price of freedom from those who served in World War II and in all of our wars; and certainly Mr. Reagan led this great Nation as we tried to create freedom for other countries, and he certainly distinguished himself in that way.

I am here tonight to talk about what I consider a real threat to the morality of America, and that is that the spiritual leaders of this great Nation are prohibited from expressing their first amendment rights to speak out on the moral and political issues of the day.

Many people know the history of this. Some do, some do not. The history is that from the beginning of this great Nation, until 1954, a spiritual leader could speak in his church, synagogue, or mosque on any issue of the day and not feel that there would be any retribution from the Internal Revenue Service. Well, one might say, what do you mean the Internal Revenue Service? Well, in 1954, Lyndon Baines Johnson, a United States Senator, offered an amendment on a revenue bill going through the Senate that was never debated. In fact, the Republican majority accepted Senator Johnson's amendment on unanimous consent, so there were no hearings, no debate, or anything. And basically what Mr. Johnson was trying to do at that time was the H.L. Hunt family in Texas was adamantly opposed to his reelection, and they had a couple of 301 think tanks, and so he wanted to quiet those think tanks. So, therefore, he put an amendment on a revenue bill going through the Senate that was never debated.

The unintended consequences of Mr. Johnson's amendment was and is the fact that churches that are 501(c)(3)s are prohibited from having any type of sermons that might be interpreted as being political at all. I do not know how one can uphold the teachings in the Bible if one does not talk about certain moral issues of the day.

This Nation was built on Judeo-Christian principles; and if this Nation is going to remain strong, then it must remember the Judeo-Christian principles that are the foundation of this great Nation.

The reason I wanted to come to the floor tonight, Mr. Speaker, is the fact that the bishop of Colorado Springs issued a pastoral letter to all of the Catholics in his diocese, and I will submit this entire letter for the RECORD.

The reason I bring this tonight to the floor is that the Bishop Sheridan of Colorado Springs has a responsibility to the teachings of Jesus Christ as well as the teachings of the Pope. Being a Catholic leader, he does feel very strongly about the pro-life issue; he does feel very strongly about stem cell research; he does feel strongly about euthanasia, the protection of our elderly. So he issued this pastoral letter reminding the Catholics in his diocese that in this year's election they should look carefully at those running for political office.

Now, he did not mention Democrat or Republican, he did not mention anything of that nature or the name of the candidates. But what he did was to issue this pastoral letter. And then Barry Lynn, who is the leader of the Americans for Separation of Church and State, noted in his letter of complaint to the Internal Revenue Service that Bishop Sheridan used ''code words.'' Code words like pro-choice, pro-life, liberal, conservative, Democrat or Republican.

Mr. Speaker, this bothers me in this great Nation that we would have an agency that because of the Johnson amendment is to enforce the law, but this was not part of the Johnson amendment. There is nothing in the Johnson amendment that talks about code words. That was an administrative decision by the Internal Revenue Service that if you as a religious leader, whether you be Protestant, Catholic, Jew, or Muslim, if you have these types of sermons and you might mention these words like pro-life or pro-choice, then you could have your 501(c)(3) status jeopardized.

Mr. Speaker, I am of the firm belief that this Nation, I do not believe that

my colleagues on either side of the aisle, whether they are religious or nonreligious, believe that we should have code words that someone who is speaking from the heart, speaking from the Bible might get themselves in trouble because they are advocating what the church stands for, what their religion stands for.

So, Mr. Speaker, I tonight want to work toward my close by saying that I hope that we as a legislative body will look seriously at this issue. I do not know if the House will bring this bill up that I introduced, H.R. 235; but I believe sincerely that prior to 1954, every preacher in this country, every rabbi in this country, every priest in this country, every cleric in this country had the right to speak on these issues and to speak based on the Constitution and based on the teachings of their religion.

So, Mr. Speaker, with that, I would like to say that I hope that the men and women who have worn the uniform for this Nation, those who have given their lives for this Nation, I believe sincerely that they believe that our spiritual leaders in this great Nation do have freedom of speech; but when it comes to the moral and political issues of the day, they do not have freedom of speech. So I hope that again the leadership of both parties will work with me to restore that freedom of speech. It only means that a minister or a priest or a rabbi or a cleric, if they choose to talk about these issues, may do so.

I close by asking God to please bless our men and women in uniform and their families and please, God, bless America.

A PASTORAL LETTER TO THE CATHOLIC FAITHFUL OF THE DIOCESE OF COLORADO SPRINGS ON THE DUTIES OF CATHOLIC POLITICIANS AND VOTERS

DEAR BROTHERS AND SISTERS IN CHRIST: This coming November we Americans will participate in one of the most important national elections in recent history. The president, senators and congressmen who are placed in office by our votes will serve at a time in which issues that are critical to the very survival of our civilization will be at the top of the political agenda. As we prepare for these elections I consider it my duty as your bishop to write to you about these matters so that you might go to the polls this fall with a well-informed conscience.

The Church teaches that ''man has the right to act in conscience and in freedom so as personally to make moral decisions.'' Often we hear people claim that they are making decisions in accord with conscience even when those decisions defy the natural law and the revealed teachings of Jesus Christ. This is because of a widespread misunderstanding of the very meaning of conscience. For many, conscience is no more than personal preference or even a vague sense or feeling that something is right or wrong, often based on information drawn from sources that have nothing to do with the law of God.

The right judgment of conscience is not a matter of personal preference nor has it anything to do with feelings. It has only to do with objective truth. ''Conscience must be informed and moral judgment enlightened. A well-formed conscience is upright and truthful. It formulates its judgments according to reason, in conformity with the true good willed by the wisdom of the Creater. The education of conscience is indispensable for human beings who are subjected to negative influences and tempted by sin to prefer their own judgment and to reject authoritative teachings.''

All people have a grave obligation to form their consciences by adhering to the truth, precisely as that truth is found in the natural law and in the revelation of God. As Catholics we have the further obligation to give assent to the doctrinal and moral teachings of the Church because ''to the Church belongs the right always and everywhere to announce moral principles, including those pertaining to the social order, and to make judgments on any human affairs to the extent that they are required by the fundamental rights of the human person or the salvation of souls.'' In other words, as people who profess the Catholic faith, we must ''have the mind of Christ'' in every judgment and act.

Among the many distortions and misrepresentations that prevail in the current debates about the relationship between religion and the social order (politics) is the assertion that faith and policies are to the kept separated. This, apparently, is based upon the American doctrine of the separation of church and state. In fact, the wall that separates church and state is the safeguard against both the establishment of a state religion and the imposition or sectarian religious beliefs and practices, such as particular denominational forms of worship or theological tenets. In no way does the American doctrine of separation of church and state even suggest that the well-formed consciences of religious people should not be brought to bear on their political choices.

The Second Vatican Council was abundantly clear on this matter. ''Nor, on the contrary, are they any less wide of the mark who think that religion consists in acts of worship alone and in the discharge of certain moral obligations, and who imagine they can plunge themselves into earthly affairs in such a way as to imply that these are altogether divorced from the religious life. This split between the faith which many profess and their daily lives deserves to be counted among the more serious errors of our age. Long since, the Prophets of the Old Testament fought vehemently against this scandal and even more so did Jesus Christ Himself in the New Testament threaten it with grave punishments. Therefore, let there be no false opposition between professional and social activities on the one part, and religious life on the other.''

When Catholics are elected to public office or when Catholics go to the polls to vote, they take their consciences with them. Pope John Paul II has consistently taught this as, for example, when he said that those who are directly involved in lawmaking bodies have a ''grave and clear obligation to oppose'' any law that attacks human life. The Congregation for the Doctrine of the Faith has declared that, ''in this context, it must be noted also that a well-formed Christian conscience does not permit one to vote for a political program or an individual law which contradicts the fundamental contents of faith and morals.'' Anyone who professes the Catholic faith with his lips while at the same time publicly supporting legislation or candidates that defy God's law makes a mockery of that faith and belies his identity as a Catholic.

In November we will once again have the privilege of exercising our most precious right as citizens—the right to vote. Our choices will be made from among an array of candidates who take a variety of positions with regard to many important issues. In the midst of what could be a difficult and confusing exercise it is very important to remember that not all issues are of equal gravity. As men and women of good will we strive to achieve true justice for all people and to preserve their rights as human beings. There is, however, one right that is ''inalienable'', and that is the RIGHT TO LIFE. This is the FIRST right. This is the right that grounds all other human rights. This is the issue that trumps all other issues.

The November elections will be critical in the battle to restore the right to life to all citizens, especially the unborn and the elderly and infirm. As a result of the pro-life efforts of countless Americans the number of abortions performed in our country is now declining for the first time since the appalling Supreme Court decision of 1973 that made it ''legal'' to kill our children. We cannot allow the progress that has been made to be reversed by a pro-abortion President, Senate or House of Representatives. Neither can we permit illicit stem cell research that makes use of aborted babies. Any movement to promote and legalize euthanasia must be halted. Our votes have the power to stop these abominations.

There must be no confusion in these matters. Any Catholic politicians who advocate for abortion, for illicit stem cell research or for any form of euthanasia ipso facto place themselves outside full communion with the Church and so jeopardize their salvation. Any Catholics who vote for candidates who stand for abortion, illicit stem cell research or euthanasia suffer the same fateful consequences. It is for this reason that these Catholics, whether candidates for office or those who would vote for them, may not receive Holy Communion until they have recanted their positions and been reconciled with God and the Church in the Sacrament of Penance.

In recent months another issue has reached the level of our legislatures. It is so-called ''same-sex marriage.'' Those who now promote this deviancy often present it as a human right denied homosexual persons and thus illegally discriminating against them. But, in fact, no one has a right to that which flies in the face of God's own design. Marriage is not an invention of individuals or even of societies. Rather it is an element of God's creation. It is God who created us male and female. It is God who joined man and women so that they could be fruitful and multiply and fill the earth. Every civilization known to mankind has understood marriage as the union of a man and a woman for the procreation and rearing of children. And yet now, in 21st century America, there are those who would want us to believe that all people of all times have been mistaken about the true nature and purpose of marriage. No one can simply redefine marriage to suit a political or social agenda.

Once again, we must be clear about this matter. The future of our world depends upon the strength of the family, the basic unit of society. The future of the family depends on the state of marriage. The family—father, mother and children—reflects the nature of God Himself, who is a communion of selfless and self-giving love. For this reason marriage and family life cannot be whatever we want them to be. They are only and always as God has created them. As in the matter of abortion, any Catholic politician who would promote so-called ''same-sex marriage'' and any Catholic who would vote for that political candidate place themselves outside the full communion of the Church and may not receive Holy Communion until they have recanted their positions and been reconciled by the Sacrament of Penance.

The Church never directs citizens to vote for any specific candidate. The Church does,

however, have the right and the obligation to teach clearly and fully the objective truth about the dignity and rights of the human person. These teachings, in turn, must inform the consciences of voters. ''By its intervention in this area, the Church's Magisterium does not wish to exercise political power or eliminate the freedom of opinion of Catholics regarding contingent questions. Instead, it intends—as is its proper function—to instruct and illuminate the consciences of the faithful, particularly those involved in political life, so that their actions may always serve the integral promotion of the human person and the common good.''

Dear friends in Christ, I exhort you with all my heart to take courage and proclaim the Gospel of Life to those who will stand for elected office this fall. It is by your prayers and by your votes that politicians who are unconditionally pro-life and pro-family will serve our country. Conversely, if our voices remain silent or if, God forbid, we vote contrary to our informed consciences, we will see our country led down a short path to ruin. We want freedom for all, but there can be no freedom without truth. In the words of our Holy Father: ''When freedom is detached from objective truth it becomes impossible to establish personal rights on a firm rational basis; and the ground is laid for society to be at the mercy of the unrestrained will of individuals or the oppressive totalitarianism of public authority.''

Let us all pray for those politicians who claim to be Catholic yet continue to oppose the law of God and the rights of persons that, by the grace of God, they will be converted once again to the full and authentic articulation and practice of the faith.

Finally, I wish to affirm my brother bishops who have proclaimed the truth of these critical matters and who have admonished those Catholic politicians who place themselves at odds with the truth of God. May that truth which is the foundation of genuine freedom prevail in our country.

Given at the Chancery on this first day of May 2004, the Feast of St. Joseph the Worker.

Most Reverend MICHAEL J. SHERIDAN,
Bishop of Colorado Springs.

MANIPULATION OF ENERGY MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, 3 years ago, with a bipartisan group of lawmakers, I met with Vice President CHENEY to discuss the then crisis and runup of electricity prices in the western United States. On a bipartisan basis, Republicans and Democrats, we told the Vice President that we believed the market was being manipulated by Enron and others, and he lectured us and told us that we were out to lunch, that this was nothing but market forces and, in fact, if we did not build a 500 megawatt electric generating plant every week for the next 16 years, prices would stay up at $2,000 or $3,000 a megawatt hour.

Now, of course, the transcripts are now out there from the Enron traders. I cannot read them on the floor because they are absolutely chock full of obscenities, but they carry on about a few things. They carry on about how great it is going to be when the Bush administration goes to the White House, no more price caps; how Ken Lay was the greatest single contributor to George Bush over his political lifetime and might even be Secretary of Energy, or otherwise would be setting energy policy for the United States.

One has to wonder why Vice President CHENEY is still hiding the records of those conversations. Then, as they manipulated the market on 450 out of 573 days, one day they were on the phone yelling, cheering, ''burn, baby, burn'' as power lines were scorched by fire. They bragged about stealing millions from Grandma Millie in California.

□ 1800

They talked about withholding power, increasing prices, wandering power through Oregon and other neighboring States in order to jack up prices in California, and still today people in my State are paying about 43 percent more for their electricity than they did 4 years ago for the same electrons generated by the same plants because of these scams by Enron, scams that of course Vice President CHENEY said were nothing but market forces.

Now the Republicans are refusing to do anything about it. This energy bill does nothing to deal with what Enron has done to defraud the people of the western United States and roll back these illegal and unfair contracts and prices.

But now we are on to a new one, oil. Now, this is kind of familiar. DICK CHENEY and George Bush say it is market forces, nothing we can do about it. In fact, the White House has done nothing about the escalating oil prices here in the United States.

Now, it is kind of interesting because it is awfully similar to the electricity industry. There have been 2,600 mergers in the petroleum industry in the last decade. There are virtually no more small independent distributors, and many of the smaller companies have been gobbled up by others. Tremendous concentration in this industry.

Of course the same thing that follows with these market forces is an absolutely obscene runup in profits. We are seeing just in the first quarter this year British Petroleum 165 percent increase in profits. ChevronTexaco, 294 percent increase in profits. ConocoPhillips, a measly 44 percent. Their market forces are not working as well as the others, I guess. And ExxonMobil, 125 percent, and this next quarter promises to be even more lucrative for these companies.

Now, there was a day when the United States Congress set an independent path on critical issues to the American people, like the oil crises of the 1970s, and the Congress actually took definitive steps. They enacted windfall profit tax to get at the price gouging of the industry. They adopted mandatory fuel economy standards. They in fact capped the price of fuel, because they knew that this was being manipulated and the American people were being gouged.

But not this Congress. This Congress is offering the same old lame energy bill that it passed 3 years ago, 2 years ago, last year, and now we are going to vote on it again, same bill, $18 billion of subsidies to the suffering oil-gas industry that has record profits, profits of over $700 billion last year, and the taxpayers should subsidize it. Oh, come on now. I guess that is market forces. No. Wait a minute. How can subsidizing the industry be market forces? Well, I guess it is socialism, but we do not count that as socialism because we are giving it to a meritorious industry that needs the money; or, well, it does not need the money but it should get the money.

Now, what is going on here? When are we going to begin acting on behalf of the American people? When is the Bush administration going to file their complaint in their favorite organization, the World Trade Organization? They love rules-based trade. They love the WTO, but guess what? Eight of the OPEC countries are in the WTO. They are violating the rules of the WTO by constricting supply to drive up prices; but the Bush administration, no, they are not going to file a complaint against OPEC.

Then of course there is the Petroleum Reserve, which the President is filling at outrageous prices, and the list goes on and on. I have offered productive alternatives, as have other Democrats, but this administration stands mute because their friends in the oil industry are making out like bandits.

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

(Mr. HENSARLING addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. TIAHRT) is recognized for 5 minutes.

(Mr. TIAHRT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. TERRY) is recognized for 5 minutes.

(Mr. TERRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ABUSE OF POWER BY SECRETARY RUMSFELD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr.

MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the abuse of Iraqi prisoners began with an abuse of power by the Secretary of Defense, Mr. Rumsfeld. Justice will be served in Iraq only when America accepts responsibility for the prisoner abuse in Abu Ghraib and fires Secretary Donald Rumsfeld.

Secretary Rumsfeld and the administration can deny all they want, but the truth will not be denied. White House lawyers wrote memos about it. They tortured the English language until the President and the top civilians at the Pentagon were satisfied they could do whatever they wanted, manipulate the data, make it seem like truth. That has been the administration's approach in Iraq.

Secretary Rumsfeld pretended the Geneva Convention did not exist. Apparently it had too many constraints, like humane treatment of prisoners. Rumsfeld himself approved interrogation practices they are now trying to cover up by classifying them as secret.

Rumsfeld thought the world would never know. Mr. Nixon thought that too. Mr. Rumsfeld thought he could deny for so long the people would get tired and stop asking questions. Nixon's henchmen in the White House thought that too.

Rumsfeld thought a wave of the hand and attacking your critics could manipulate the news media into looking the other way. Nixon tried that too and it did not work.

The truth catches up with you, Mr. Rumsfeld. Like a Republican President who disgraced this country, Secretary Rumsfeld has abused the trust America has placed in its leaders. No one is above the law, not even those who show contempt for the law.

Torture is torture, Mr. Rumsfeld, no matter what you call it.

The abuse of power Secretary Rumsfeld triggered at the Pentagon has made Iraq even more dangerous for U.S. soldiers on the front lines. There is no excuse for that. There is no defense for that.

America cannot believe the pictures we have seen who came from people who call this country home. Secretary Rumsfeld tortured the U.S. values with its total disregard for a military code of conduct that applies in war.

The Geneva Convention was written to protect people in war from people like Secretary Rumsfeld, but he has dishonored this country and the tradition of the U.S. military. Instead of accepting the responsibility, the administration keeps throwing soldiers overboard in hopes that the question will stop before the truth emerges.

The latest casualty is General Janis Karpinski, who calls herself a ''convenient scapegoat.'' With the blessing of Secretary Rumsfeld, she says, the Abu Ghraib prison was ''Gitmoed.''

General Karpinski points to the top U.S. Commander for Iraq, General Ricardo Sanchez. Rumsfeld just rotated him out of the country. Out of sight, out of mind, that is the view of Mr. Rumsfeld. General Karpinski asks what was asked during the Nixon administration as they desperately tried to cover up Watergate. What did he know and when did he know it?

General Karpinski says that Sanchez needs to be questioned about the abuse. Rumsfeld says Sanchez needs a well-deserved rest after a trying time in Iraq. General Karpinski says the military commander in charge at Guantanamo Bay, Major General Geoffrey Miller, likened Iraqi prisoners to dogs. She quotes him, ''They are like dogs and if you allow them to believe at any point that they are more than a dog, then you have lost control of them.''

Secretary Rumsfeld is responsible for a military scandal that has commanders equating human beings with animals and treating them even worse.

The first step in restoring U.S. credibility is removing the weakest link in the U.S. military chain of command. That is the man at the top. Mr. Rumsfeld forgot that in war a nation must not only fight the enemy, it must also fight to retain its values. America should be a country that stands for bravery. Rumsfeld has made America a nation that is ashamed. Either resign or get fired. That is what the President ought to do, Mr. Speaker.

America deserves better than this. When they catch an American in Iraq and they say we will treat him like they treated the prisoners at Abu Ghraib, everybody gets up in arms and says what is going on here. Mr. Rumsfeld is to blame. Whatever happens to that American is because the Secretary of War in this country acted not in the America's best interest, but in the belief that he could do anything because he was the Secretary of War.

REVISIONS TO THE 302(a) ALLOCATIONS AND BUDGETARY AGGREGATES ESTABLISHED BY THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 2004 AND 2005

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I submit for printing in the CONGRESSIONAL RECORD revisions to the 302(a) allocations to the Appropriations Committee and budgetary aggregates established by the budget resolution. These revisions increase the amount of new budget authority available to the House Appropriations Committee to reflect both technical changes and additional funds for wildland fire suppression provided by the Interior appropriations bill reported to the House today. My authority to make these adjustments is derived from sections 312 and 313 of S. Con. Res. 95, as made applicable to the House of Representatives by H. Res. 649 (108th Congress).

Section 313 of the conference report to accompany S. Con. Res. 95 provides for an increase in budget authority and outlays to the House Appropriations Committee upon reporting of the first bill by that committee. This increase, which totals $7,158,000,000 in new budget authority and $14,516,000,000 in outlays, is necessary both to increase the discretionary levels from the discretionary limits that are binding in the Senate (by virtue of Section 504 of the fiscal year budget resolution) to the levels envisioned by the conference agreement, and to achieve comparability in the budgetary treatment of Project Bioshield between the President's budget request and the conference agreement. I am hereby increasing the allocation and budgetary aggregates by these amounts.

Section 312 of S. Con. Res. 95 provides for a supplemental increase in budget authority and outlays to the House Appropriations Committee if additional funds are provided in 2004 or 2005 for wildland fire suppression. The adjustment is available for fiscal year 2005 if regular appropriations provided by the reported bill are at least 10-year average of obligations for such activities. Because this requirement has been met, I am increasing the 302(a) allocation of budget authority to the Appropriations Committee by $500,000,000 in both 2004 and 2005 to reflect the additional amounts provided in the Interior appropriations bill. Outlays flowing from this budget authority total $330,000,000 in 2004 and $420,000,000 in 2005.

After the adjustments specified in these two sections, the 302(a) allocation to the House Committee on Appropriations becomes $786,065,000,000 in budget authority and $861,672,000,000 in outlays for fiscal year 2004 and $821,919,000,000 in budget authority and $905,748,000,000 in outlays for fiscal year 2005. The corresponding budgetary aggregates become $1,881,055,000,000 in budget authority and $1,903,832,000,000 in outlays for fiscal year 2004 and $2,012,726,000,000 in budget authority and $2,010,964,000,000 in outlays for fiscal year 2005.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4568, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2005.

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–544) on the resolution (H. Res. 674) providing for consideration of the bill (H.R. 4568) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4567, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–545) on the resolution (H. Res. 675) providing for consideration of the bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes,

which was referred to the House Calendar and ordered to be printed.

MANIPULATIONS OF ENRON

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes as the designee of the minority leader.

Mr. INSLEE. Mr. Speaker, I came tonight to the floor of the House to address an outrage, perhaps the largest fraudulent activity in American history which has resulted in literally billions of dollars being stolen from American ratepayers for electricity in the western United States. And this, of course, is the outright theft from West Coast ratepayers by the Enron Corporation. And I have come to the floor tonight because, unfortunately, the energy bill that passed this Chamber today did absolutely nothing whatsoever to restore one ounce of justice for the consumers on the West Coast who were so grievously ripped off by the Enron Corporation.

Mr. Speaker, the sad fact is that today the House of Representatives had an opportunity to do something about an outrage that has not been remedied now despite our efforts for the last 3 years. Because the sad fact is that the Enron Corporation and others manipulated with unfortunately great effect the energy market in the West Coast starting in 2000. This manipulation resulted in West Coast ratepayers paying conservatively in the billions of dollars of overcharges to Enron and other energy traders. And the law of the United States as written is designed to prevent that and does prevent that if we had a cop on the beat to enforce the laws. But, unfortunately, what happened in the years 2000 and 2001 is that Enron found a way to gain the system. They found a way to essentially shut off generating capacity for the western coast of the United States and, as a result, drive up the prices dramatically, and they were unfortunately successful in this outrageous conduct. In fact, rates being paid by utilities, and therefore ratepayers in the western United States went up by a factor of a thousand percent, sometimes on a daily basis. And Enron was successful in doing this because they decided not to follow the law. And, unfortunately, they had some allies in not following the law, and that was this Federal Government, which did not enforce the law of the United States and allowed Enron to foist billions of dollars of overcharges on the ratepayers on the West Coast.

Now, just to put a sense on how grievous this is, in Snohomish County, Washington, in the northern Puget Sound area, an area which I represent, ratepayers are still paying today half as much more than they should be paying, 52 percent more than they should be paying for electricity due to the depredation, the rapaciousness of the Enron Corporation.

This is now over a billion dollars in the State of Washington of overcharges that ratepayers are still paying today. And we believe, at least on my side of the aisle, that the Federal Government should take action to get refunds back from the Enron Corporation as a result of these wrongful activities.

Unfortunately, today, the Republicans refused to allow an amendment to be even voted on in this Chamber to get that money back for ratepayers on the West Coast. It would have been a simple amendment. I offered it in conjunction with the gentleman from California (Mr. FILNER) and the gentleman from Oregon (Mr. DEFAZIO), that would have required that refunds would have been given to these ratepayers going back to the year 2000. But unfortunately the majority party decided to side with Enron, the bankrupted corporation, bankrupt both fiscally and morally. They sided with Enron rather than with consumers and stood against giving consumers the refunds that they are owing.

□ 1815

This is outrageous, and I know it is outrageous because the offenses of which I speak are not hypothetical. We have very clear evidence of what Enron did, and that evidence has been disclosed by very vigorous, assertive, and healthfully combative Public Utility District in Snohomish County PD, in Snohomish County, Washington, because what they did was they forced the disclosure of audio tapes that these Enron traders had kept of their conversations when they came up with their nefarious deals.

The Bush administration and their Federal Energy Regulatory Commission did not want the public to hear these tapes. They did not want the public to have access to the gamesmanship that went on that cost consumers so many millions of dollars, but Snohomish County PD was very energetic in getting these tapes released. Now they have come forward, and what is on these tapes would shock even the saltiest of sailors, not only because of the language that was used but because of the immoral, unethical conduct where these traders basically sacrificed willingly the ratepayers in order to juice out another million dollars or so a day for the Enron Corporation.

I would like to go over some of these, and we have deleted the expletives that were unfortunately frequently in their conversations, but we are trying to keep the gist of their conversation, and I am just going to refer to some of them here. These are audio tapes transcripted by Snohomish County Public Utility District of traders for Enron Corporation talking to one another.

First trader: So the rumor is true that they are taking all the blank money back from you guys, all that money you stole from those poor grandmothers in California?

Response: Yeah, Grandma Millie, and she is the one who could not figure out how to blank vote on the butterfly vote.

Response: Now she wants her blank money back for all the power you jammed her for, for $250 per megawatt hour.

That is a conversation between Enron traders.

Now, when they talk about jamming Grandma Millie, what they mean by this is they have constricted the supply down, going to the California ratepayers and Washington for that matter and, therefore, boosted the price up, in this case to $250 a megawatt hour, in many cases up to $1,000 a megawatt hour, 10 times what was the previously going rate.

Now this type of conservation was repeated over and over and over again by these traders.

Second example. The Enron traders discovered a handy little technique. They found a way to congest transmission lines so that when they were congested, energy could not get through. So they would willfully schedule transmissions in a way that would prevent transmission from occurring, and when that happened, the price skyrocketed because of the existing demand. So here is a conversation here. They are talking about the congestion.

Then the other trader states: If the line's not congested, I just look to congest it. If you can congest it, that is a money maker, no matter what.

And it was a money maker, because when they congested these lines, the price skyrocketed, sometimes tenfold, and when it skyrocketed, several things happened. First off, you actually had brownouts in California, but you also forced utilities like Snohomish County Public Utility District in Washington State to enter into long-term contracts to try to ameliorate, to try to reduce the outrageous hits they were taking in these skyrocketing prices. Enron tried to sort of lure them into these long-term contracts and were sometimes successful because they were punishing ratepayers with these outrageous prices.

Third example. The Enron traders talked about who they would like to be running the Federal Government, and they talked about it in terms about who would be on Enron's side. They talked about who would be favorable to Enron, who would sort of wink at the wrongful actions by Enron, who would be sort of the cop who was asleep at the switch; and they reached a conclusion pretty quickly.

First off, they noted that Enron was the biggest contributor to the election campaign of President George Bush. They then noted that would it not be great if the next Secretary of Energy was Ken Lay, the disgraced CEO of the Enron Corporation. What they said was, How great would that be for all the players in the market. He would open these markets up.

Now, they were right on that. If Ken Lay was Secretary of Energy, he would have opened up these markets and

would not have taken any steps to try to tamp down the rapacious behavior of Enron, but it turned out they did not need Ken Lay as being Secretary of Energy because the people in the Bush administration were quite effective in not doing anything to lift a finger to stop Enron from gouging west coast ratepayers. They got what they wanted. They got cops on the beat who just winked and let the bank robbers take money out the door without doing anything about it.

It is very interesting here. The prediction of the Enron traders that, number one, they could congest these lines and drive up prices was accurate, much to the damage of people in Washington, Oregon and California; but their second prediction, that the President of the United States would let them get away with it, was accurate, too. That is the reason why it was such a grand shame here today when the Republican Party would not let this House vote on an amendment to simply enforce these laws, to finally blow a whistle on Enron and blow a whistle on the Bush administration for their failure to enforce this law.

I would like to yield to the gentleman from Oregon (Mr. DEFAZIO) who has been fighting this battle now for several years, who has been a stalwart on it, who has a never-give-up attitude.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for his leadership on this issue.

Of course, the interesting thing is that we in the Pacific Northwest were the tail of the dog here. On manipulated markets for profit in California, they drove up wholesale markets Westwide. In fact, some 570 days they manipulated markets. It has now been found to be more than 460 days.

The gentleman might remember the meeting we had with Vice President CHENEY just about 3 years ago now. We got a bipartisan meeting together and Democrats and Republicans came together and said to the Vice President, as Northwesterners we are really concerned about what is happening with electricity prices, $2,000, $3,000 a megawatt. This cannot be market forces at work. Energy is usually selling at $30 a megawatt, $40 a megawatt. Out in the Pacific Northwest, it is 50, 100 times more.

You probably remember the Vice President. He dismissed us with his usual, it is hard to say, I guess sneer would be the best way to say, and say we just simply did not understand, poor little babies. These were market forces at work. This had nothing to do with market manipulation, absolutely nothing; and if we did not build a 500 megawatt plant a week for 16 years, this would continue, $2,000, $3,000 megawatt energy.

A funny thing happened on the way to the market forces here, and that is, the Senate changed hands. DIANE FEINSTEIN then managed to schedule a hearing to bring in the people from the Federal Energy Regulatory Commission and other people from the Bush administration to have them testify on the record under oath about these market forces; and you know what, they suddenly decided there was market manipulation. They quickly imposed price caps, and then the whole thing began to unravel.

They protected their contributing class of Mr. Lay and others as long as they could. As these gentlemen said here in these transcripts, Enron was the single largest contributor to George Bush, and Ken Lay was the single largest individual contributor to George Bush over his lifetime until this campaign. He may still well be contributing and the President may still be taking his money. Ken Lay has not gone to jail yet so I guess he can still contribute.

Mr. INSLEE. Mr. Speaker, I think it is important to go into our conversation in some detail with the Vice President.

This was a bipartisan meeting with members of the west coast delegations, and what we did is we laid out the evidence for the Vice President, and stoplights in California were not working at the time we were talking to the Vice President of the United States, begging him for assistance. What the evidence we showed him was that at the time we were talking to him fully 32 percent of all the generating capacity in the west coast of the United States was turned off. At the time that stoplights were going out in California, Enron and its co-conspirators had turned off almost a third of all the generators in the west coast. They have tried to lay this excuse that, well, we were maintaining them, which was pretty lame because on the average in the last 12 years there has only been 2 to 4 percent of these plants down.

So what we told the Vice President, in a pretty cogent way is, Mr. Vice President, it is obvious someone is gaming the system. There is clear manipulation going on. There is skullduggery. This is a scandal. One-third of the generators are turned off. You are causing brownouts in California. We are having 1,000 percent run-ups in the State of Washington. We need your help. We need your help to force FERC to enforce the law. And I will never forget what he said to that request.

He looked at us in the eye, and he said, and this is about as close to a quote as I can come: you know what your problem is, you just do not understand economics. Now, we do understand economics. My degree happens to be in economics. It is just that we do not understand Enronomics. We do not understand Enronomics that the President and the Vice President of the United States sit on their hands and do nothing while consumers are gouged 10, 20 billions of dollars a year and are still suffering as a result of this Federal Government's refusal to act.

Mr. DEFAZIO. Mr. Speaker, we need to spend more time on the past here because people need to understand what happened with this market manipulation, and in fact, of course, the head of the Federal Energy Regulatory Commission, Pat Wood from Texas, chosen by George Bush and Ken Lay, wants still to push forward with this deregulation model and impose it on the rest of the United States of America. After all, it was a great success. The only problem was that Enron got caught. A few people made a lot of money. A lot of people had to pay a lot more for their electricity, but that is kind of the way they run the tax system in this country.

I would like to draw a parallel to something that is even more on people's minds. In the Northwest now it is not the heating system. The high rates are not quite as troublesome, although they certainly trouble our businesses every day, particularly those that are energy intensive and are contributing to our high unemployment rate, but I would compare it to what is happening with gasoline.

We are hearing the same refrain from the administration about the prices of gasoline, that these are market forces. Yet, in the last 10 years, there have been 2,600 mergers in the oil industry. We find that every company in the oil industry, those few that are left, are enjoying record profits; and they are saying, oh, these are just simple market forces at work, and again, refusing to act, and of course, this time there is no prospects, since they control both Houses of Congress, that someone can convene hearings to get to the bottom of the market manipulation that is going on here.

It starts with OPEC, and the President, of course, is a great believer in free trade. If he is such a believer in free trade, why is he letting the OPEC countries violate the World Trade Organization? Why not file a complaint? I have sent him two letters to that extent and have had no response.

Beyond that, there are certainly other things he could do. A much braver Congress and more independent Congress years ago imposed a windfall profits tax on the industry and took other dramatic steps to help save American consumers, but they will not do that. It is the same thing that happened with electricity here.

There are a favored few who I would call the contributor class. Most of the people who made the money here are Pioneers or Rangers for the President. Most of the companies that manipulated the market just happen to be based in Texas, and they are still profiting from these contracts because they will not allow your amendment.

I mean, if anything is an illegitimate contract, if you read these obscene transcripts, which we could not read on the floor of the House, the FCC would be on top of us, of these so-called traders of Enron and what they were doing to manipulate and the language they were using and what they were doing to people, if these are not illegitimate contracts, extorting people illegally in

the Northwest and elsewhere, I do not know what is; but they will not allow us to debate an amendment on that issue on the floor.

Mr. INSLEE. That is correct and the reason this is such a shame now is that for over 2 years we urged the administration to act. They did not act. There was an obvious defrauding going on, an obvious offense, an obvious crime. They let the embezzlement in a sense continue, and then told us they cannot get the money back for us. I want to make sure people understand this.

First, when we asked for relief, the President and the Vice President said you are on your own, we are not going to help you. They said that for 2 years. Finally, in 2003, they said, okay, now we give up, we are going to offer some price caps, and they finally gave us some relief in 2003.

□ 1830

But the horse was well out of the barn after 2 years of theft. What happened was they allowed that money to go to Texas. A lot of people in Houston bought mansions with the money we paid on the west coast, with money they stole from the west coast. The former Texas Governor let them steal it and did nothing for 2 years. Those people are now in Texas with money in bankruptcy that we cannot get.

Now because of the combination of President Bush's inaction and failure to follow his responsibility and the bankruptcy laws, this money is gone. But at least we ought to be able to stop Enron from getting another $122 billion from Snohomish County.

Mr. Speaker, I yield to the gentlewoman from California (Mrs. DAVIS) who has been a tremendous advocate from the very beginning trying to get some action by this government for California ratepayers.

Mrs. DAVIS of California. Mr. Speaker, we did have an opportunity to address this issue today. We had an opportunity to say something happened 4 years ago that needs to be remedied today. Unfortunately, we did not act.

I want to go back for a moment and talk about what our experience was and what happened. When energy prices spiraled out of control beginning 4 years ago yesterday with the major blackout in California, we were told it was just because California had not built enough energy plants so there was not enough supply for the demand; but there was. Power had been turned off by the energy companies to create a false shortage and exorbitant prices. In fact, the power plants had 37 to 46 percent of capacity that was untapped.

The tapes of Enron employees which were finally revealed recently make that abundantly clear. They said, ''There are ways you can go and run through the congestion process, get paid for congestion, and then cut your power and just collect the money.''

But in San Diego, we have known that the market was being manipulated for most of the 4 years since it began.

Workmen at Duke's Otay Mesa Energy plant revealed early on that they had been ordered to turn off the generators and say that maintenance was needed. They had been ordered to do that. Then they were told to destroy parts so that no maintenance could be completed and the power supply would continue to be turned off to create an artificial shortage. Yet the Federal Energy Regulatory Commission, FERC, refused to investigate. Their legal role was to ensure ''just and reasonable rates,'' but they let the rates skyrocket without action.

Throughout that summer, we petitioned them to hold hearings and to put a cap on rates, but they refused to act. For over a year and a half, there had been details not only of Enron's manipulation, but of gaming by other energy companies. Reliant traders also bragged of shutting down much of the energy production, gloating, ''Isn't it fun when you can do things like that now?''

Tapes were found of Williams employees conspiring to cut supply. I recall public hearings at the time where representatives of these energy companies denied any gaming of the market. A number of us were at these hearings and we were trying to push, trying to understand, and they denied any possible gaming of the market. With other elected representatives I heard the president of our local utility declare they were just ''passing on their costs,'' but they neglected to tell us that their existing lower cost contracts for natural gas to run their plants were not being used for the local facilities, but were being sold on the market at an enormous profit.

And did FERC investigate these acts and hold the energy companies accountable? Members know the answer to that. No. Instead, they held private meetings with the power company seeking settlements out of the public eye for a few cents on the dollar.

In San Diego where the rates first soared, so many people suffered. I remember going to local restaurants, small business owners whose ice cream stores could not cut back the electricity, and they had to go out of business. A bakery that closed, mom and pop shops with very narrow margins wiped out by triple energy prices. Frail, elderly people on fixed incomes who could not afford to run their fans or air conditioners when inland temperatures soared.

And when winter came, the natural gas line coming from Texas suddenly cut off half the volume. Natural gas prices exploded, and folks could not afford to heat their homes. Museums housing precious objects, churches and synagogues and nonprofit agencies could not expand their limited budgets for this enormous line-item increase, and they could not just put a surcharge on the price of their services as some businesses chose to do. Schools and colleges had to cut supplies and programs. To save energy, grocery stores turned off half of their lights, having been told supply was the problem.

I remember clearly we felt like we were in the dark no matter where we went. Our city felt under siege. Worse, the community ratepayers, the small businesses and families who suffered, have not received rebates in proportion to their losses, $9 billion in unjust charges.

So we must not let this prevail. We must not be silent. We must continue to advocate and to let our voices be heard because our voices are the voices of our communities, and they know this was unjust and they know this was not reasonable; and that is why we must continue to speak out. That is why I am so disappointed today, and thank the gentleman from Washington (Mr. INSLEE) for holding this Special Order because we could have handled this today. We could have addressed this issue today, and we chose not to do it.

Mr. INSLEE. Mr. Speaker, I appreciate the gentlewoman's eloquent statement, but I think it is important to state that the Democrats on this side of the aisle, we were prevented from having this amendment brought up. Think about the outrage, when we want democracy in Iraq, we do not have democracy on the floor of the House. The House is not even given an opportunity to vote on an amendment to get refunds.

To show how callous these Enron traders that the Republican Party has now decided to accommodate by not allowing this amendment even to be voted on, I want to read one transcript to let Members know what the Enron corporation was like. Here is a trader that says, Kevin, there was a guy here yesterday. He is some consultant for some ''blank'' other business we are supposed to be starting over. He said the guy came in and he said I am in California now, and my small consulting business, my energy costs have gone from $100 to $500 a month. It is unbelievable. I do not know what to do.

The trader said, I just turned from my desk and looked at him and said, Move.

Mr. Speaker, that was a very heartfelt comment, and that was Enron's attitude and apparently that is the Republican Party's attitude. He should have moved from the west coast because we are not going to do anything for refunds.

The same trader continued saying, ''The best thing that could happen is if there was a 'blank' earthquake and let that thing,'' meaning the west coast, ''float out to the Pacific where they can just light candles.''

That is the attitude of Enron and that is the attitude of the majority party, apparently, that would not allow us to take action to do something about this travesty. California was hit, Oregon was hit, Washington was hit; and we are still suffering today.

Mr. Speaker, I yield to the gentlewoman.

Mrs. DAVIS of California. Mr. Speaker, it is very disappointing because when people deal with these issues, they are not dealing with it in a political context. This is not political. This is about the lives of people, their businesses and how they conduct themselves. When the public hears the kinds of statements made by those traders, they look to us, they look to us for help, for support. That is why it is important that this House which represents the people, whether Democrat, Republican, Independent, needs to respond; and that is why this was such a disappointment today.

Mr. INSLEE. The reason we need to respond is the administration has not. Beginning in 2000 and 2001, we have made every concerted effort to get the administration to impose some type of relief, price caps or otherwise. They refuse to take any steps. They sat on their hands. As Bonnie and Clyde ran out with the bank notes, these people sat there and watched this theft occur and did not lift a finger for 2 years.

Now in 2003, because they were so ashamed by what was going on, they finally issued some price caps. But unfortunately according to their commissioner, and this was on June 4, and this is amazing, talk about a catch-22 here, this administration's agency, the Federal Energy Regulatory Commission, whose job it is to protect consumers, they wrote me a letter. I urged them to take action to get refunds for people up and down the west coast.

They wrote me a letter and told me, number one, we have concluded there was massive violation of the law by Enron. We have concluded that there was manipulation. We have concluded there was gaming of the system. We have concluded in essence that there was congestion caused to shut down access to drive the price. We have concluded there was all of this skullduggery and scandal. But we do not think we have the authority to act to get refunds back from the people who had all of this money embezzled before 2003.

So here we have this administration saying we concluded there was a huge crime here. There was robbery, fraud, and embezzlement, and we know how much was taken from ratepayers; but golly gosh, we cannot do a thing about it.

Mr. Speaker, we had a chance today to do something about it to make it the law of this land that we are going to get those refunds, and the majority party refused to even allow that to come up for a vote, and it is a double scandal. It is a scandal that would make Enron proud.

Let me make reference to one thing, when there was a fire that shut down a transmission line and prevented transmission of electricity to California which allowed Enron to boost the rates almost a thousand percent, a trader said, ''Burn, baby, burn. That is a beautiful thing.'' That is why Enron would be very proud of the majority party today refusing to allow us to vote on something to get refunds for people. The majority party adopted the ''burn, baby, burn'' approach to not allow us to do anything to get these refunds.

If there was some question, if it was kind of a close call, like there are close calls in baseball, was he safe, was he out, if this was a close call whether Enron gouged west coast ratepayers, then perhaps there might be an excuse; but there is no excuse here. These tapes are the equivalent of a videotape of the crime, DNA of their identity, fingerprints, and a confession after their Miranda rights; and still when this crime occurred, the Republican Party will not help us remedy this wrong. We are going to continue this effort.

Mrs. DAVIS of California. Mr. Speaker, we had the tapes that we just dealt with, and there have been so many other instances along the way that pointed to the fact that there was outright manipulation. Talk about a smoking gun, we had a smoking howitzer, and people still did not respond.

□ 1845

Mr. INSLEE. Just to give you an example, I just want to read specific language of two traders. They are talking about whether to keep a generating plant running or not. One trader asked the operator of the plant from Enron, ''How hard would it be for you to turn off your plant and then if we want to start it up later?'' He said, ''It's not that hard.'' So the Enron trader said, ''If we shut it down, could you bring it back up in 3 or 4 hours?'' The response was, ''Oh, yeah.'' The response was, ''Why don't you just go ahead and shut it down if that's okay.'' And when they shut it down, they boosted these prices up, sometimes 1,000 percent.

That type of language was found by Snohomish County in at least a dozen specific circumstances where Enron specifically requested energy to be shut down. We do not know all of them because we found out they were actually taking some of these calls on cell phones to try to get them off their recording system but we have got enough to know there was a clear crime here.

Mr. Speaker, I yield to the gentleman from Washington (Mr. BAIRD), who has so ably advocated for southwest Washington, which also suffered in this debacle.

Mr. BAIRD. I want to thank my friend for raising this issue and for his leadership on this and my friend from California as well. What I would like to do is do two things: First of all talk a little bit about the impact of this terrible practice on the people of my district and relate a couple of stories, and then contrast that impact with what the chairman of the Federal Energy Regulatory Commission said about this incident.

First let me talk a little bit about schools. I visited a number of schools in my district during the height of this crisis and asked them what the impacts of these terribly increased energy rates were. These were the things I was told. First of all I was told of one school district that had scheduled to purchase new textbooks for their kids. These were not because they just were whimsically buying unnecessary books. I saw the books that they were using. These were books that were almost a decade old. As you can imagine after that much use, the binders were torn up. The books were really not serviceable, were not up to date. But because they could not afford to pay their energy bill, these school districts were having to forgo the purchases of new textbooks.

In addition to that, I visited some of the classrooms. Some of the classrooms were functioning with only half of their lights on and the kids were literally told you need to wear extra sweaters and coats to school because we cannot afford to heat your classroom because of these energy rates.

I talked to senior citizens who told me, Congressman, I am not necessarily going to be able to pay my rent because of the increase in power rates. We had utility districts that saw almost a 100 percent increase in power rates for residential customers. I talked to farm product producers, refrigeration houses, et cetera, who said they were almost faced with bankruptcy because the cost of operating their facilities had gone up so high that they were not able to make ends meet.

On a much larger scale, we had an aluminum smelter that had produced some of the highest quality aluminum in the world that was forced to shut down and is in bankruptcy now and is being parted out, basically scrapped out. We had 700 or more workers directly affected who lost their jobs, their health benefits, in some cases their retirement benefits because electrical prices went through the roof.

In the backdrop of that, of schools not ordering textbooks and turning off their lights and turning down their heat to levels that the kids were cold, in the backdrop of senior citizens who could not pay their rent, in the backdrop of small businesses and farmers who were forced to close their doors, in the backdrop of more than 700 jobs permanently lost, I want to share with you a statement by the individual who could have stopped this but did not. Pat Wood, the head of the Federal Energy Regulatory Commission, said this on March 4, 2002 in an interview in Business Week:

''I view Enron's collapse as an affirmation of the efficiency of energy markets.'' I am going to say that again. ''I view Enron's collapse as an affirmation of the efficiency of energy markets,'' said Pat Wood.

He continued:

''Here was a player who because of bad investments in noncore businesses, managerial shortcomings and—to be charitable—accounting obfuscation, became tainted and lost creditworthiness. Yet, with few exceptions, energy

customers have been able to work through those problems without any real significant impact.'' Let me say that again. The head of the Federal Energy Regulatory Commission, who refused to act when Enron was manipulating these prices, who was recommended by the top guns at Enron, said even as people throughout my district, throughout the West Coast were losing their jobs, losing their homes, losing their businesses, said, ''With few exceptions, energy customers have been able to work through these problems without any real significant impact.''

My good friend from Washington commented earlier, and I was in the room with the gentleman from Washington (Mr. INSLEE) when we talked to the Vice President of the United States. We said, Mr. Vice President, the economy of the West Coast is being devastated by these incredibly increased power rates. We said, Mr. Vice President, wholesale markets have gone from $30 a megawatt hour to $3,000 a megawatt hour, a 100-fold increase. There is no justifiable mechanism that causes such a basic commodity as this to increase 100-fold. Everybody is complaining now about gas prices going over $2.50 a gallon. I share that complaint. But if it were a 100-fold increase in gas prices, gas prices would be $250 a gallon. That is the kind of price increase we sustained in electrical wholesale markets.

The Vice President of the United States of America did nothing to stop that. The head of the Federal Energy Regulatory Commission did nothing to stop that. As businesses closed, our constituents lost their jobs and our school districts went broke, they did nothing to stop it. It is shameful, if not criminal.

Mr. INSLEE. Not only did they do nothing, this House today did nothing while our consumers are still continuing to pay these outrageous electrical rates in Snohomish County, Washington, 52 percent today, still higher. This is the long, dark shadow of Enron that today we refused to do anything about. I want to go through just a moment of history of how this administration has and has not acted and why this ends up with rates being so high.

It is interesting when President Bush was running for office in October 2000, when he was in San Diego and the prices were just starting to maybe go up, he said, ''I believe so strongly that part of this region is going to suffer unless you have a President who is willing to tell FERC to do what is right for the consumer.'' So when he was campaigning, he said he was going to make sure FERC did right by the consumers. He then took the oath of office in January 2001 and the next thing we heard was from Lawrence Lindsey, his assistant in the White House who said, ''They should expect no more help from the White House.'' Message from George Bush to the West Coast: Go fish. Let them eat cake. As a result, Enron had the green light from the President of the United States to go embezzle, cheat, gouge as much as they could from the West Coast and, by gum, Enron got the message. How do I know that? Here is a quote from one of the Enron traders. This is just right before the election. ''Matt,'' the Enron trader said, ''you know what? I'm scooping up every bit of 'blank' power I can and take next summer,'' Tom said, ''because caps won't be there,'' meaning price caps, meaning he knew the President would do nothing about this problem.

Matt responded, ''They got to come for it. I'm bound to bet huge on the election. When this election comes, Bush will 'blank' whack that stuff, man.'' I am paraphrasing the expletives out. ''He won't 'blank' play this price cap stuff. I bet they'll impose a national price cap at $1,000 and that's fine with me.''

They bet and they won. The Enron traders won when George Bush was elected to office and when the Republicans controlled the House of Representatives because they have done nothing for the years 2000, 2001 and 2002 to remedy this bleeding by our consumers.

Just to make sure that people understand we are not kind of making this stuff up as we go along, I want to read about what the administration themselves concluded. On March 2003, the Federal Energy Regulatory Commission issued a final report on price manipulation in western markets. It found ''significant market manipulation,'' that ''many trading strategies employed by Enron and other companies were undertaken in violation of antigaming provisions.'' It identified more than 30 entities that might have manipulated the market. But Catch-22 from the Bush administration, we are not going to do anything about it. They concluded for 2 years before 2003 there was massive market manipulation and they refused to lift a finger to give refunds for people who were victimized. I could understand it if they said we are not sure if there was a crime here. But when the President of the United States' own agency concludes that billions of dollars were stolen from ratepayers in the western United States but they refused to lift a finger to get refunds, something is rotten in the State of Washington, D.C., and it is the influence of Enron Corporation still in the political process of those who still run the Federal Government. We have got to see some changes around here.

Mr. BAIRD. I want to underscore exactly what you said and how prescient and remarkably so that the individual cited in the recording said, ''I'm betting on a $1,000 per megawatt cap'' because that is exactly the cap that was proposed. Let us put that cap into context. Again, the average cost before this crisis was $30 a megawatt hour. So the cap on $1,000 is a 30-fold increase. A 30-fold increase if applied to gasoline would be over $75 a gallon today. $75 a gallon. Not a tankful but a gallon. That is the kind of cap they were talking about. How remarkable. And I do not think it really is remarkable that they would speculate on precisely the cap that was put in.

Let me line this trail of evidence further. The Vice President of the United States has claimed executive privilege and has denied this Congress and the American people access to the names of the people with whom he consulted in crafting his energy bill. How is it that Enron traders would so accurately predict the level of the cap that would be put on in the energy bill? How did they know that? And how coincidental that the Vice President of the United States will not give us the list of those names. He is consulting with the very people who are manipulating the energy markets at the very time they are doing the manipulation and he is refusing to do anything to stop that manipulation. And the people of the United States are being hammered and losing their jobs, losing their homes, losing their businesses, and the people who are doing the manipulation are talking to the Vice President about what the energy bill should contain and he is going along with them and he is refusing to stop them, and now is it any wonder he refuses to tell the American people with whom he was speaking.

I want to walk through, if I may, a little bit about how this dynamic works. Here is the situation our local utility districts were faced with. Normally they could go on the spot market and buy energy in a shortfall for between $30 and maybe up to $60 a megawatt hour, but somewhere in that ballpark. But when prices spiked to $3,000 a megawatt hour, that is a 100-fold increase, so think about that for a second. If you have a commodity that goes up 100-fold, then in 4 days of purchase you have blown your entire annual budget. In 8 days of purchase, that is 2 full years of your budget. So the utilities were left with a Hobson's choice. I personally believe Enron, et cetera, created this choice for a very clear motive. What they did by letting prices spike to $3,000 a megawatt hour was they then had the utilities over a barrel and they said, ''Here, we've got a choice for you. If you don't want to risk that $3,000 per megawatt hour, why don't you just lock in prices at, say, $250 a megawatt hour,'' roughly the same level that that quaint trader said he would shove somewhere up some grandmother's anatomy. The utilities had no choice. Either you buy $250 a megawatt hour and lock it in for the long haul, thereby forcing your ratepayers to pay as much as eight times the normal going rate, or you run the risk of $3,000.

So some of our utilities had no choice but to lock in these long-term contracts because they had to protect themselves against the risk of these outrageous short-term power rates. We

are still paying the cost of that today in Cowlitz County, a county in my district that saw that aluminum smelter close, saw the loss of more than 700 jobs, is one of the leading counties in my State in unemployment, or had been. It is a wonderful county with hardworking, decent people. Their public utility district saw 97 percent rate increases. The Social Security COLA runs somewhere between 2 to 4 percent a year, depending on the year. If you are a senior citizen on a fixed income and you have to heat and light your home, when the Social Security COLA increases 2 or 3 percent but your power rate increases 97 percent, how do you possibly make ends meet?

□ 1900

And how does Pat Wood, the head of the FERC, say most consumers have gotten through this without any difficulty? And, frankly, how does the Vice President of the United States sleep at night?

Two questions that I hear from my constituents all the time. First, where is the money? Who profited from this? Where did the money go when these rates went through the ceiling? And the second is, why does someone not go to jail? People ought to go to jail for this. They clearly broke the law. They clearly defrauded the public. They ought to go to jail, and those who profited from it ought to pay back the money.

And one final thing. I can tell them where part of the money went. Part of the money went into campaign contributions. Part of the money went into campaign tricks to help the very people who refused to regulate this market get reelected, and here I am sorry to say that as these energy markets went through the roof and were manipulated criminally, we received almost no assistance, virtually no help from our colleagues on the other side of the aisle. They said, no, we are going to let the market take care of itself. We are not going to intervene. Indeed, there was a certain condescension on their part that how dare we try to control these markets.

And let me point out that regulated cost-based pricing was the model that worked in this country for many decades before Enron, et al. persuaded various governments and the administration that we ought to deregulate the markets, and they took advantage of that. They helped write the law. They then took advantage of that, and they deceived the public in the process, and our friends on the other side of the aisle were silent, in fact, blocked our efforts to try to impose regulations.

Mr. INSLEE. Mr. Speaker, unfortunately, our friends on the other side of the aisle were worse than silent. They absolutely choked off any consideration of the Enron scandal on the floor of the House today. Here we have this enormous scandal breaking with the exposition of these tapes, and they refused to allow any Enron discussion even or action on the floor of the House.

The gentleman brings up campaign contributions. It is interesting because so did the Enron traders. I want to read from a transcript of a tape of two Enron traders talking shortly before the election. The first one, his name was Matt. Matt was talking to Tom, and the transcript says: ''Tell you what. You heard this here first: When Bush wins—

''Tom: Caps are gone,'' meaning price caps, some action to keep prices reasonable.

''Matt: That 'blank' Bill Richardson,'' former Secretary of Energy, ''he's gone, and Clinton, he's gone. All those socialists are gone.

''Tom: Yeah.

''Matt: And who's the biggest single contributor to the Bush campaigners?

''Tom: You.

''Matt: (Laughs) Enron.

''Tom: Enron. What?

''Matt: Enron.

''Tom: Is it Enron?

''Matt: Yeah.

''Tom: Is that true?

''Matt: Yeah, I think it is.

''Tom: The biggest single contributor.'' Enron Corporation.

''Matt: Yeah, the biggest corporate contributor.

''Holy—really? That's huge.

''And that is number one.

''Ken Lay,'' CEO of Enron, ''is going to be the Secretary of Energy.

''Tom: Get out of here!''

Tom does not have to get out of here because he got what he wanted. He got a compliant administration that let Enron rip off American citizens, Democrats, Republicans, Independents alike. They were bipartisan victims, and he got an administration to let them run rampant through the energy markets and steal billions of dollars from our citizens and neighbors who cannot afford it. He got what he wants. Now it is up to this Congress to do something to get what we want and what our citizens, Republicans and Democrats alike, want, which is a refund for the money.

Where did this money go? It went to buy a lot of mansions in Houston where the President used to be Governor, where his Vice President met with Ken Lay, the CEO of Enron, in a secret meeting to come up with a secret energy plan that is no secret any longer. There is no secret about what happened here. Enron got what they wanted, a compliant administration to let them take as much as they want from consumers and do nothing about it. And they got a Vice President, when we laid out the facts to them, when it was clear as a bell that this manipulation was going on, they got a Vice President, and do my colleagues know what he said? The same months that there were brownouts in California, he said ''The basic problem in California was caused by Californians.'' Maybe he is referring to the traders in Enron. Maybe they lived in California. I do not know, but I do not think so because it was obvious what was going on here. Thirty-two percent of all the steam-generated, gas, coal-fired plants feeding the west coast United States had been turned off, and the Vice President and the President of the United States told victims of that skullduggery that they were not going to do anything about it.

And now Congress needs to act, and we are going to continue to press on this because we have learned an interesting thing. We can actually get this administration sometimes to change behavior. For 2 years they refused to do anything about this. We finally shamed them into action, and in 2003 they finally adopted price caps that they said were going to ruin the U.S. economy and that this was a communist plot to have price caps. They finally did it in 2003 because they could not take the heat anymore. We are hoping this administration, when they feel enough heat, and our colleagues across the aisle, when they feel enough heat, maybe they will not see the light; but maybe they will feel the heat, and maybe they are going to then knuckle under and do something for the consumers that are owed so much. I would like a closing comment from the gentleman from Washington (Mr. BAIRD) as we close our discussion tonight.

Mr. BAIRD. Mr. Speaker, I would just add to this that when appropriations runs around in this Congress, we often, all of us, send out press releases to our constituents. We help get X amount of dollars to come back to our district for a school or a highway or you name it. But I wonder why my friends on the other side of the aisle have not sent letters back to their constituents saying because of our inaction in 2000 and 2001, billions of dollars were taken from people's pockets, from their families, from their schools, from their businesses and given to large energy corporations. Because whatever they may bring back to their district, Mr. Speaker, they have allowed to be taken out. Because of their inaction, because of the inaction of this administration, because of their actions in allowing this deregulated debacle to move forward, billions of dollars have been taken out of hard-working Americans' pockets, put into large corporations who have broken the law, rewritten the law to their own advantage. It has been cynical. It has been destructive.

The one final thing I would say is, and it is a little bit of a deviation, but there is a pattern here. It is not only a pattern evident in the energy bill. We saw in the Medicare bill, which was also written to a large degree by special corporate interests and some of our own colleagues who helped write that legislation are going to work for those special interests, to prohibit the Secretary of Health and Human Services from negotiating lower drug prices. When I tell this to my friends back home in town meetings, they sometimes do not believe it. They say,

Do you mean to tell me that the very people who benefit, who raise our prices on energy or on pharmaceuticals are writing the laws and Congress is doing nothing?

And the sad truth is we are doing worse than nothing. We are enabling this.

Mr. INSLEE. Mr. Speaker, we do not want to believe that the U.S. Congress would allow such a massive rip-off of Americans to take place and not do something. We do not want to believe that just because Ken Lay was so close to President Bush that the whole Federal Government will do nothing. We do not want to believe that massive political contributions could end up with the Federal Government not doing its job. We do not want to believe that when the Federal Government itself concludes that there was a crime, that there was manipulation, that there was gamesmanship, that there was defrauding, that there was embezzling, that they would do nothing. We do not believe that is the right thing to do, and we think ultimately we have some confidence that we will actually prevail on this. Even if it takes November and we get a new Congress that will finally take action to get a refund for Americans, that is the route we will go.

I want to thank the gentleman from Washington (Mr. BAIRD) for joining me this evening.

THE WAR ON TERROR

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under the Speaker's announced policy of January 7, 2003, the gentleman from Arizona (Mr. FRANKS) is recognized for 60 minutes as the designee of the majority leader.

Mr. FRANKS of Arizona. Mr. Speaker, it is an honor to be here tonight. I am especially gratified at the presence of the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services. I truly believe that there is not a finer American in the Congress than the gentleman from California (Mr. HUNTER).

Mr. Speaker, as we begin to discuss some of the new events that are taking place in Iraq, I thought it might be good to review some of the circumstances that brought us there in the first place. Mr. Speaker, with all of the discussion lately regarding the search for weapons of mass destruction, regarding the Abu Ghraib prison issue, sometimes I think we forget what our basic reason was for going into Iraq.

After September 11, this country recognized that it had entered into a different age, and the wars that we fought in the past and the Cold War we had an enemy that we recognized for who they were. We recognized that they had a capability that was incredibly dangerous to the freedom of the United States of America. We knew their capability, Mr. Speaker; but we did not always know their intentions. And, Mr. Speaker, I submit that even the basis of our defense at the time in the Cold War was predicated to a great degree on our enemies' sanity. We believed that they had enough respect for their own lives and enough commitment to live that somehow our own offensive capability would deter an attack from an enemy like the Soviet Union.

And, Mr. Speaker, I am sure that we would all like to have a better philosophy than mutually assured destruction, but indeed that philosophy kept us safe for a very long time. But, again, it was predicated on the sanity of our enemy.

Today, Mr. Speaker, we recognize a different enemy. It is an asymmetric enemy that no longer fits the traditional mode at all. We now know the intention of our enemy very well. If September 11 did not teach us that, then I suppose it is a lesson that will escape us forever. If the circumstances regarding the brutal murder of Nick Berg does not teach us the mindset and intention of our enemy, then again I suppose that lesson will evade us. If the words of Osama bin Laden when he said that ''obtaining nuclear weapons is our religious duty,'' if that does not help us understand the gravity of the enemy we face, then perhaps again it is a lesson that will evade us to our great peril.

Mr. Speaker, today with terrorism we face an enemy that has the worst possible intentions for America and the worst possible intentions for freedom. It is fundamentally critical that we interdict their capability. And, Mr. Speaker, of all the reasons for us to have gone into Iraq to free that country, one of the greatest is to interdict the entire process that leads to the terrorist organizations throughout the world.

Terrorists understand that better than anyone. Even now terrorists come into Iraq on a regular basis to try to not only discourage Americans from maintaining their commitment to freedom but to do everything that they can to win the battle there in Iraq because they know that if there is a beachhead of freedom built in Iraq, if we truly can find freedom come to this nation, that it could begin to spread throughout the entire Middle East region, and, Mr. Speaker, perhaps it has the ability to turn the whole of humanity in a better direction.

□ 1915

I truly believe that our choices are very simple: We either defeat terrorists in Iraq on their own ground, or we continue to fight them here.

Mr. Speaker, I think it is very important that we not only defeat terrorists on the battlefield, but we have to understand that we need to address the core rationale that spawned terrorism in the first place, and that is a misguided religious hatred. If we fail to address that and to win the battle of ideas, then we will be destined to fight this battle over and over again.

Mr. Speaker, I think one of the things that gives me great hope along those lines is the recent visit that I was privileged to have in Iraq, privileged. I met with the Iraqi Governing Council. One of my great concerns has been the kind of constitution that Iraq would finally end up with.

You say, well, you know, isn't that just the new Iraqi government's job to do that?

Mr. Speaker, it is important that the new Iraqi government maintains the oversight of their constitution and builds the government for themselves. But I really, truly believe that America has a tremendous responsibility to help the newly freed, the newly liberated Nation of Iraq, have the advantage of some of our experience.

It was not so long ago that young men in airplanes, with a misguided religious fervor once again, flew their airplanes into ships, and sometimes I wonder if we missed the connection there, that the same misguided young men today are flying airplanes into buildings, and for some of the same basic, twisted reasons.

When we fought with Japan, when we prevailed, we told Japan that they should write their own constitution, and they did. They wrote three of them. None of them had religious freedom or any truly basic bill of rights in their constitution. So we recognized the importance of that, and at that time we literally imposed that constitution.

We did not have to do that this time, Mr. Speaker. Now we have been privileged to see an interim constitution in Iraq that has almost all of the magnificent bill of rights that the U.S. Constitution has.

Let me just quote Alexander Hamilton to underscore the importance of that. He said, ''If it be asked what is the most sacred duty and the greatest source of our security in a republic, the answer would be an inviolable respect for the Constitution and the laws, the first growing out of the last. A sacred respect for the constitutional law is a vital principle, the sustaining energy of a free government.''

Mr. Speaker, I have to say, I have been terribly concerned that somehow once we liberated Iraq and withdrew, as we always do, we do not continue to occupy a nation after we liberate it. I think it has been said that the only piece of ground that the American soldier has ever occupied for any length of time has been that little green patch of grass under some Star of David or Cross of Calvary out on some foreign battlefield cemetery.

Mr. Speaker, I pray that when we finally step away from Iraq that they will have the kind of constitutional foundation that will give them some of the same magnificent tools and hopes and dreams that America has had, because I think it would be very arrogant on the part of Americans to think we are smarter than everyone else. We have had a wonderful blessing of a

foundational Constitution that gave us a pillar to build a republic upon, and it has absolutely astounded the world in the 225-plus years that we have been here.

Mr. Speaker, I just hope with all of my heart that the Iraqi people and the Iraqi constitution that they now have remains in place, and I have some hope for that, because as I met with some of the Iraqi National Council they seemed to have caught the fever of freedom. It is like the quote from Leonardo da Vinci. He says, ''Once you have tasted flight, you shall thereafter walk the Earth with your face turned skyward, for there you have been and there you long to return.''

I truly believe that now the Iraqi people have tasted freedom they will hold on to this constitution.

I am reminded of the quote from Daniel Webster in our own country about our own Constitution, and I think it bears repeating tonight. He said, ''Hold on, my friends, to the Constitution and to the republic for which it stands, for miracles do not cluster, and what has happened once in 6,000 years may never happen again. So hold on to the Constitution, for if the American Constitution should fall, there will be anarchy throughout the world.''

Mr. Speaker, indeed, the American Constitution was a miracle, and it brought forth the greatest country in the history of humanity, and I am just hopeful enough to believe that there is going to be a new miracle in the Middle East, and somehow the constitution that is now in place in Iraq will be something that will germinate in the hearts of new Iraqi leaders as they take over, and we will some day look back on this situation and realize that with all of the critiques and all of the things that come against our President now, that we faced those critiques before. Ronald Reagan certainly faced them, and yet now we see him as one of the greatest heroes in human modernity. So I am hopeful this freedom and miracle will repeat itself.

Now I am just honored, Mr. Speaker, to yield to the distinguished chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), who I truly believe to be one of the greatest Americans in this body.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding, and I think if he thinks I am one of the greatest Americans he may be in trouble. But I want to commend the gentleman for his great service on the Committee on Armed Services and all the work he has done on behalf of people in uniform everywhere.

It is interesting. This is an interesting time in that we have had several weeks of remembering a great President, Ronald Reagan, and at the same time the criticism of our present President, George Bush, has mounted severely.

I was looking over some anti-President quotes, anti-Republican President quotes, and I thought I was reading some things about President Bush, because, of course, you have these various groups that have been put together, knit together, to come forth in the nature of Henny Penny announce to us that the ski is falling in, particularly with respect to foreign policy, and that we have got to get this guy out of here; and we look at the credentials of the people who have said it, and a few of them have marginally worked in Republican administrations, but most of them came right out of the team on the other side.

It was interesting, I was looking at some statements about a President, and I had a couple of statements I thought bore repeating, because they looked to me like they had been applied to President Bush by his critics.

Here is a quote by a gentleman who is running for President. He said, ''The biggest defense buildup since World War II has not given us a better defense. Americans feel more threatened by the prospect of war, not less so, and our national priorities have become more and more distorted as the share of our country's resources devoted to human needs diminishes.''

I thought that was JOHN KERRY talking about George Bush, but it is not. It is JOHN KERRY talking about Ronald Reagan. In fact, it looks to me like they simply xeroxed this statement and put this out on the latest ''sky is falling in'' report about the present President.

Here is another quote: ''The administration has no rational plan for our military.'' You heard that one before? There is no plan. ''Instead, it acts on misinformed assumptions about the strength of the enemy and a presumed window of vulnerability, which we now know not to exist.''

I thought, well, doggone it, that is Senator KERRY and he is talking again about George Bush. No, that is Senator KERRY talking about Ronald Reagan back in the 1980s. Of course, the same Senator KERRY now thinks that Ronald Reagan was actually quite a guy, and he said over the last several weeks that he brought us together and was a great President.

Now, here is another one. This one is a little bit personal. ''You roll out the President one time a day, one exposure to all you media, no big in-depth inquiries, put him in his brown jacket and his blue jeans, put him on a ranch, let him cock his head, give you a smile, it looks like America is okay.''

I thought, there is JOHN KERRY talking about George Bush down on the ranch in Texas. No, it is JOHN KERRY talking about Ronald Reagan down on the ranch in California 20 years ago.

''The President certainly was never in combat. He may have believed he was,'' this is another quote, ''but he never was. The fact is he sent Americans off to die.''

I thought maybe that was JOHN KERRY talking about George Bush. We have heard a lot about that issue over the last 3 or 4 months. No, that was JOHN KERRY talking about Ronald Reagan.

Here is another quote: ''I am proud that I stood against the President, not with him, when his intelligence agencies were abusing the Constitution of the United States and when he was running an illegal war.''

Once gene, I thought this was JOHN KERRY talking about President Bush. It is not. Twenty years ago, this was JOHN KERRY talking about Ronald Reagan.

After his first major political battle in the Senate over the President's foreign policy, JOHN KERRY said, ''I think it was a silly and rather immature approach.''

I thought, well, doggone it, that has to be JOHN KERRY talking about George Bush's approach to Iraq. No, that is not. That is JOHN KERRY talking about Ronald Reagan's approach to our Central American countries during the contra wars, 20 years ago.

Incidentally, it is interesting, that ''silly and immature approach'' that Senator KERRY talked about 20 years ago ended up and resulted in Guatemala, Honduras, Salvador and Nicaragua all today being fragile democracies; and, interestingly, Salvadorans are standing side-by-side with Americans fighting for freedom in Iraq today. They are some of our best soldiers. In fact, their people have shown absolute bravery on the battlefield. And one time they were on the verge of being assimilated or taken over by a communist-backed insurgency, a Russian backed insurgency back in the 1980s.

It is interesting, what JOHN KERRY called ''a silly and immature approach'' resulted in fragile democracies coming around or springing up in all those countries, which, before the Reagan administration had been military dictatorships.

Now, here is another one. Mr. KERRY spoke at great length about the President's abuse of the Constitution and totalitarian inclinations. This must be him talking about the PATRIOT Act. ''They are literally willing to put the Constitution at risk because they believe there is somehow a higher order of things,'' maybe that is about Abu Ghraib, ''and the ends do in fact justify the means. That is the most Marxist, totalitarian doctrine I have ever heard in my life.'' This is a quote from JOHN KERRY. ''You have done the very thing that James Madison and others feared when they were struggling to put the Constitution together, which was to create an unaccountable system with runaway power running off against the will of the American people.''

Once again, I thought that must be Mr. KERRY talking about George Bush. No, that was Mr. KERRY talking about Ronald Reagan, whom he now reveres.

Interestingly, just a year or so ago, he likened his own criticism of Ronald Reagan to George Bush. He said this, and this is about the President. He says, ''They have managed him the same way they managed Ronald

Reagan. They send him out to the press for one event a day. They put him in a brown jacket and jeans and get him to move some hay and drive a truck, and all of a sudden he is the Marlboro Man.''

He goes on. ''We have seen governors come to Washington, and they don't have the experience in foreign policy and they get in trouble pretty quick. Look at Ronald Reagan, look at Jimmy Carter, and now, obviously, George Bush.''

So let me see. We had the former leaders of the free world talking about Ronald Reagan the other day, Brian Mulroney, Maggie Thatcher, talking about the hundreds of millions of people who were freed by the Reagan doctrine of peace through strength. Those days when Ronald Reagan strode out, took leadership of the free world, and when the Russians ringed Western Europe with SS–20 missiles in an attempt to intimidate our allies, the President started to move ground-launched Cruise missiles and Pershing missiles into place in Europe, and the Russians picked up the phone and said, can we talk?

But, of course, before they picked up the phone and said can we talk, there were massive demonstrations in Europe, and liberals like Mr. KERRY talked about the idea that somehow we had lost our leadership of the free world. They called Ronald Reagan a cowboy. They said we need to talk more. We need to get concessions from the Soviet Union.

And what happened? He met their strength with American strength, and in the end we had arms reductions, and in the end Ronald Reagan negotiated not just arms limitations, he negotiated the surrender and the disassembly of the Soviet empire.

□ 1930

Very interesting that we have got now this same collection of people coming together and saying, well, they may have gotten it wrong with Ronald Reagan 20 years ago; but by golly, this time they think they have got it right with George Bush. And you can Xerox these quotes from Mr. KERRY that he used 20 years ago against President Reagan and put them in his speeches today against George Bush, President Bush; and there is not a bit of difference.

Now let us go back to the facts. The facts are that when this country was attacked, this President did what we all needed him to do. He moved aggressively against terrorists; and in moving aggressively, we hunted these guys down in places where they never thought we could get to them. The Tenth Mountain Division soldiers killed them in rifle pits at 10,000 feet elevation in the mountains of Afghanistan, in those rugged areas on the Pakistani border.

We went into Iraq and took out a dictator, who I guess, except for Adolph Hitler, was the only dictator in the history of the world who used poison gas to kill his own people. And those thousands of Kurdish mothers laying on those hillsides holding their little babies killed in mid-stride by that poison gas, according to today's liberals, was not enough of a justification for the United States to change the leadership of Iraq.

What have we done in Iraq? Well, we have occupied Iraq, and it truly is an occupation and occupations are tough. They are tough on both the occupied country, and they are also tough on the occupying country. And if you do not think that is so, look at what happened after World War II when we were occupying Germany and other parts of Europe, and you had the presence of outsiders, Americans are great people, but outsiders wearing very thin on the German populace, just as we wore thin on dozens of countries simply because we were there, we were outsiders; they knew we were going to leave after a while.

We had lots of writings, lots of editorials talking about how the people who had come in and had their tanks strewn with flowers when they liberated those areas now becoming somewhat of a guest who had been there, who had overstayed their invitation and should move out.

Well, we all know that, and we all know that the stray artillery round that accidentally hit civilians, the truck that is going too fast that hurts livestock, the very presence of having outsiders in your country is always wearing thin. But what is the alternative? The alternative was Saddam Hussein and those thousands of Kurdish mothers laying on the hillside killed by poison gas in mid-stride. And I would just say to my friend, those pictures, and I keep them in my office and I look at them on a regular basis, those pictures are as compelling as anything that ever happened at Auschwitz. They are compelling, compelling pictures.

So maybe that question the school kids ask, they ask their daddies, ''Daddy, if Hitler hadn't threatened the rest of us, would we have stopped him from killing the Jewish community?'' Well, that is a pretty profound question. That is a pretty tough question, because generally speaking, the desire or the will to go to war manifested in a declaration of war by an assembled Congress and the President is usually justified based on the threat that a particular adversary has toward you, toward your country.

But I can tell you this, that at least partially the reason that we went into Iraq was because of those dead Kurdish mothers strewn out across that hillside killed in mid-stride by poison gas. It was those thousands of people who were taken in buses to the killing fields where the backhoes worked all night digging the trenches, where the firing squads that kept, according to the farmers, bankers' hours. They showed up at nine o'clock. Would wait patiently for the buses full of civilians, women, old men, children; and they would disembark from the buses and line up dutifully along their trenches, and then Saddam Hussein's gunners would walk down the line and in a very workmanlike way would put bullets in the backs of their skulls, and they would be bulldozed into the trenches and filled up.

One day the farmer said that the ammo people, the executioners, ran out of ammo, and so they just bulldozed them in anyway. They found out that kills them just as dead.

So what is that we replaced, and every American who has served in Iraq, and there are 300,000 of them, incidentally, who have served in Iraq, 16,000 bronze stars have been won. I would ask the gentleman to pull that over. We might ask that that be noticed. That is one of 127 silver stars that have been awarded in combat operations to Gunnery Sergeant Jeff Bohr, who happened to place his body between his wounded people and the adversary until he himself was killed.

And, you know, as I was looking at the stuff about the Abu Ghraib prison and the prison mess, which has dominated the media, I started to look through some of these citations of bravery, and there are tons of them. There are tons of brave, brave people who have sacrificed everything, including giving that last full measure of devotion to this cause.

And I want to say to them, what you have done, the purpose of what you have done is of value. And the real meanness of the left, of these operations, where they say, Well, we like the troops, we support the troops, we do not support what they are doing, is to devalue and take away meaning from the people that serve the cause of the American military. What they did does have value. Every single person whose boot has touched that sand of the Middle East who has served his country in an honorable way has value to this country, and Gunny Sergeant Jeff Bohr is just one of those people.

If my colleagues look through, there are literally dozens and dozens of people, hundreds of people who have done heroic acts; some 16,000 Bronze Stars have been earned in that country. Yet, I saw all this publicity about Abu Ghraib, because there is a couple of newspapers driving that story. They want that story to stay alive, to the point where The Washington Post had an article the other day and on the front page I thought, boy, they are going to try to come out with something really bad.

One of the bad things they cited was that the prisoners at Guantanamo asked for sugar in their tea. These were suspected al Qaeda, some of them, the people that ran those airplanes into our Twin Towers. These people asked for sugar in their tea, and they were told by the cruel American captors that it would be a long time before they got sugar in their tea. The Washington Post, by golly, obviously thinks

that ought to be fixed real quick. The other thing they did not get was DVDs for their religious ceremonies. So on the one hand, we have people who drive planes into buildings and kill thousands of Americans; and on the other hand, we have people who commit those acts who are treated in general so well that one of their biggest complaints is that they do not get sugar in their tea and they have only The Washington Post to fight for their rights.

Now, I looked at the number of articles that The Washington Post did, because I made the statement the other day where some people said, well, that puts you out on a limb. I said that the biggest event, military event in our history, the event upon which the freedom of our world hung in the balance, and that was D-Day, the invasion of Normandy when we were fighting the forces of Hitler, that day, that event, that operation received in The Washington Post, in those days when The Washington Post wrote a lot about our military operations, that received some 57 articles in The Washington Post. We counted them up. Now, if I have missed a couple, I want The Washington Post to set me straight and send in the other articles, and we will sure put them in our count. Fifty-seven articles The Washington Post printed about the invasion of Normandy.

Now, on the other hand, The Washington Post likes the prison story like the one they just printed about the prisoners not getting enough sugar in their tea. They have printed twice as many articles about the prison mess, about Abu Ghraib, 127 articles, and they are still going, so it is not over yet. They have printed 127 articles about the prison mess, twice as many articles as they printed about the most important day, arguably, in the history of this country during the 20th century, and that was D-Day, the invasion of Normandy, when thousands of ships and thousands of airplanes and hundreds of thousands of fighting Americans, including thousands who lost their lives, did everything they could to win back freedom for the world.

So the invasion of Normandy, D-Day, had roughly half as much importance to The Washington Post as the Abu Ghraib prison mess. I think that is imbalanced. And I think it is time for us to refocus on winning this war and, maybe more importantly, now that we have come to the first phase of this hand-off, handing off this country to a new government, a government that is led by people who are responsive to their constituents, that means to the Iraqi people, with a military that will respond to a civilian leadership; and maybe it will not be a Jeffersonian democracy, and it will not have all of the complex attributes that a country that has been free for hundreds of years has.

But, hopefully, it will be a country where the average guy has a modicum of freedom and protection, like freedom of speech, freedom to come and go, freedom to buy or sell, freedom to know that somebody is not going to knock on your door in the middle of the night and take you on a bus to the killing fields and dig a trench and execute you and push you into it.

So, hopefully, we are going to turn this country over to a government and a military, a new military that we are standing up, which will be strong enough to back that government and be responsible to that civilian government. And the United States, which is much chastened by the rest of the world, just as Ronald Reagan was chastened by the rest of the world when he took on the Soviet Union for them, and when he freed literally hundreds of millions of people, all we are asking of the people of Iraq is this: be free. Be nice to each other. Be representative if you are in government. Be responsive to what your people want. Be good to each other. Have a rule of law. Have a court system that works. Have an education system that works. Have economic opportunities so a guy with a good idea and a machine shop can make some money. Very basic, simple things.

Arguing against that, of course, are our so-called allies who really have not been our allies in many cases. The French, for example, are not our allies. The French have, on occasion, been very strong, stood strongly with the United States. Certainly they did when our people were shedding our blood at Normandy. The French liked us then. We have Mr. Lafayette gazing at us from his framed picture here on the House floor. We sure remember him.

We remember those allies in those early days, and also in World War II and, of course, the French have contingents fighting terrorism in other areas. But the idea that the French would not agree with us to get rid of a man who left all of those Kurdish mothers killed with poison gas with their babies laying across that hillside, or gunning down people in wholesale quantities and pushing them with bulldozers into open graves, or taking people who he suspected of having done things against the State and having their arms removed from them, that prison, and having schoolchildren who wrote graffiti on the blackboard ''Saddam Hussein is a bad guy'' taken out, schoolchildren, and hanged from the neck until they are dead, certainly the French would agree with us that that is the kind of a government you want to change. And certainly the Russians should agree with us that that is the kind of government that you want to change.

Now, maybe they will not agree with us; maybe they do not agree with us. I am just reminded that when we hit Mr. Qadhafi in the days when Ronald Reagan was then called a cowboy by the left, hit Mr. Qadhafi in those days when Qadhafi's agents have bombed Americans in Germany, a terrorist act, and we flew a responsive aircraft, we flew our bomber aircraft out of Heathrow in England, I remember Maggie Thatcher stood with us. And when she stood with us, even a majority of the British people were right on the bubble as to whether or not they should support us because they thought this might bring trouble on them, but Maggie Thatcher stood with us.

But when we flew over France with our bombing runs, we had to go around France, because France, even then, did not like our actions, and this particular action against a terrorist who I think they felt they could deal with, Mr. Qadhafi, so they told our planes not to cross their soil. That was not under George Bush; that was under Ronald Reagan. Do my colleagues know what Ronald Reagan did? He flew those planes right through the Gulf of Sidra and he flew a couple of cruise missiles right down to meet Mr. Qadhafi and he changed his attitude. Maybe that change of attitude is going to result in new openings in Libya.

Other actions that Mr. Qadhafi has taken lately would indicate maybe it is not. But the point is that that President stood strong against lots of criticism back here from the left and lots of criticism from allies like the French, but he did the right thing.

□ 1945

This President is doing the right thing, and we are on the verge now of making this hand-off. We are going to have elections in December. It is going to be a rough, tough, difficult road. We drove that steel column up through Baghdad very quickly and did it in what I think was a historically effective manner.

This occupation is a tough occupation. It is always tough when you have to provide a shield behind which a new government can knit itself together and that is what we are having to do. We have to provide that shield. That shield has vulnerability. When you are out there shielding people, you have vulnerability just when we have seen when they bombed U.S. headquarters; they have bombed hospitals; they have bombed lots of places where people are doing good things but we will continue to provide that shields until we make this hand-off.

I will just say one thing to the gentleman that we have learned in these United States that freedom is not free. It is also not guaranteed and freedom is not going to be guaranteed for the Iraqi people either. We are going to give them their freedom and a running start. They will have to have some grit to maintain that freedom. They have lots of enemies in the neighborhood. I hope they make it because we put an enormous investment, an investment like the gunnery sergeant who is in that particular citation.

In fact, if the gentleman will look at that, is that for the Navy Cross or the Silver Star?

Mr. FRANKS of Arizona. That is a Silver Star.

Mr. HUNTER. There are lots of folks who have given a great deal, not just

for our country, but for Iraq; and it is a very, very important thing that the Iraqi people take hold and have discipline and have tenacity and have toughness and grab hold of this idea of freedom and evolve that idea, that policy, that desire into a Nation that can endure, that will have a good relationship with the United States.

I thank the gentleman for taking out this time and I thank the gentleman from Colorado (Mr. TANCREDO), who is just a great contributor to these discussions for letting me talk about Iraq.

Mr. FRANKS of Arizona. I thank the distinguished chairman. And it is very difficult, as you know, to add much to the chairman's words because he is so articulate and has such a command of the history and just the heart and passion of what it is all about. I guess I would only associate my own feelings with the way that the gentleman has pointed out the heroism of our soldiers.

As it happens, just the Iraqi conflict about 3,700 soldiers have received Purple Hearts, 4 Distinguished Service Crosses, 127 Silver Stars, and 16,000 Bronze Stars and we had 7 that did bad things in the Abu Ghraib prison.

I think it is a great reminder to those of us in the political atmosphere that it is not those of us in this body that are the ones that bought freedom, even though there are some of the veterans here, but it is those who went out on the front lines and poured their blood out on the battlefields that bought our freedom.

With that, I would like to yield to the distinguished gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Speaker, I thank the gentleman. I also am impressed by the words of our colleague from California. His observations, his analysis, I think as always are incredibly insightful and important. I wish every single American could have heard this discussion of the history of our involvement, the political nature of the debate we are having about our involvement and exactly what is at stake. Because I do not think I have ever heard it put better and more succinctly.

The gentleman suggests that the issues that we are attempting to pursue and are involved with in our efforts in Iraq are broad and honorable and they are. His description of what it is we are trying to accomplish, the kind of government we are trying to put in place in Iraq is accurate. Also, his analysis of how difficult this is going to be is important for us to focus on for a moment. And if we do not think for a moment, if we do not think that what we are doing is right and that, in fact, the seeds of democracy that we are attempting to implant in that area of the world, a place, of course, where these seeds have never been planted before, certainly never have sprouted before, if we do not think that that is a threat to the rest of the world, the Arab world especially, the fundamentalist Islamic world, then we should only look to what is happening tonight.

As we speak here, reports are now coming through that the Iranians are massing troops, perhaps four divisions, on the border with Iraq. Their intentions we, of course, are not sure of but they are not good, we are sure of that. Whether or not they are intending to move quickly before some change of power occurs there or whether or not they intend to, in fact, take advantage of what may be a chaotic situation at the point that a change in power and authority occurs, we are not sure. But they are there for a reason.

Much of the problem we are having in Iraq, much of the destruction, much of the terrorist activity is as a result of Iranian aggression in the area. They have, as you know, supported insurgencies in Iraq. They have themselves supported both financially and morally the development of the most extreme mosques and the most extreme Imams, pushing them into Iraq and the Shia areas.

My own guess is that they are looking for an opportunity that as we approach the time that we are going to turn over the government of Iraq to the Iraqis this is a volatile and very precarious situation that exists and they are going to make it even more volatile and even more precarious. Why? What is their purpose? Again, we can only speculate right now, the three of us here, I am sure there is a great deal more information available to other people, certainly to the chairman, but we at this point in time can only assume that they are afraid that it will work, that Iran is afraid that what we are trying to do in Iraq will work and that we will, indeed, create a democratic government, the tentacles of which may spread throughout the area.

This is something that, in fact, they cannot abide. It is a threat to their existence. It is true because it is a totalitarian dictatorship that as we know now even the IAEA agrees that they are in the process of developing a nuclear weapons program. Even the Europeans are now saying, golly, there is something happening in Iran we have to be aware of and concerned of. There is no doubt that the Iranians, that the mullahs in Iran, in Tehran, are frightened by the prospects of freedom in Iraq.

Again, what should that tell us about our own efforts and about whether or not this policy is sound? There are, of course, Iranian dissidents in the United States. There are folks who have been driven out of Iran who are on the border now in Iraq. They are being protected by the United States. I know that the Iranian government has demanded many times that they be turned over to Iran, the dissidents that now form the MEK. And although now the MEK in many respects, historically speaking, we can be concerned about their actions, the fact is they are pressing for a secular government in Iran, a government that would allow freedom of religion, press, and speech. I worry of course about their safety, the safety of the people in Iraq. I worry about our willingness, what may be our willingness to surrender them. I hope that does not occur. Because I hope they can be valuable, and I hope that as they have been valuable allies over the last several years.

They are the ones that, as a matter of fact, have given us the information, much of the information that we have, the reliable information we have about Iraq's program of nuclear weapons development. But it is important for us to realize that this fight is enormous in its scope. It is not just for the security of Iraq and the freedom of Iraq. It is for the security of the entire Middle East and for the freedom of the entire Middle East. And this is the greatest threat to fundamentalist Islam. Our existence, our way of life, what we believe to be the way in which people can exist on this planet, that is the threat that they face because they cannot coexist with that. A totalitarian dictatorship, a theocracy of that nature cannot exist in a modern world where people are allowed to make decisions about themselves and about their creator and choose religions based upon their consciences and not forced upon them by any authority.

This is not a world in which they can live, nor will they, and they will fight and they will threaten and they will bluster. But it is an indication to me that we are in fact doing what is right in Iraq. We are creating an environment that is threatening to the rest of the fundamentalist regimes in the area. This is an honorable goal on our part, but it is worrisome to the extreme. We do not know what they will do, nor what they have to do it with.

Mr. Speaker, I yield to the gentleman for his remarks.

Mr. HUNTER. Mr. Speaker, I just thank the gentleman for his very astute analysis that there are no guarantees in this war against terrorism and this is a central part of the war against terrorism.

It is interesting that we had America hit with these aircraft taken over by terrorists, shocking Americans beyond their wildest nightmares and in a way that no one could imagine just a few years ago. I think that is going to be for this country, even Iraq aside, that is going to be the pattern for the next many, many years.

We live in a new age. The age is terrorists with high technology. And we had a Soviet Union which was big and strong and fielded literally in the Warsaw Pact hundreds of divisions. It had a lot of might. It had 309 SS–18 intercontinental ballistic missiles, each of which had 10 warheads, each of which was about 30 times as powerful as the bomb that hit Hiroshima. And they had those bombs and those missiles aimed at American cities, and they had at times over the last 20, 30 years very aggressive foreign policies. But they were fairly predictable, the Soviet Union.

We certainly should not lapse into nostalgia for the Soviet Union because

they were very much an evil empire. From where the sun now stands we will have people excavating graves, many of them mass graves that were caused by the Soviet Union, but this is a new era. This is an era of terrorists with high technology, and it is an era that will see bad people doing everything they can to leverage technology and to hurt Americans and our allies in ways that go far beyond the scope of what was possible just a few years ago. And just a usage of those American aircraft that were taken over by the terrorists and the thousands of people who were killed and hurt by those actions are representative of what we can expect for the next 20 or 30 years.

We all breathed a sigh of relief when the Soviet Union went down. We look forward to an era of peace. Unfortunately, we will only have an era of peace if we have strength, and one thing that we will have to have if that we dissembled in the days when liberals in this country thought that it was not Marquis of Queensbury rules for us to have good intelligence. We are going to have to have really good intelligence.

Mr. Speaker, I want to thank my very good friend, the gentleman from Colorado (Mr. TANCREDO), as he is leaving, because he is a gentleman who is very astute and has spent a lot of time looking in depth at these issues and knows a lot about security. He is not a member of our Committee on Armed Services, but we wish he was. And I want to thank the gentleman from Colorado.

Mr. Speaker, I wanted to ask my friend, the gentleman from Arizona (Mr. FRANKS), who has done a great job on this Committee on Armed Services, we put together this bill. We hope to get the other body to get to work and get their bill done and get the thing finished and get it to the President's desk. But I wanted to ask him what his impressions are of where we stand in this war against terror. Because I know he looks at it every day and I just say to the gentleman, you have done a great job on the Committee on Armed Services.

Mr. FRANKS of Arizona. Mr. Speaker, I thank the chairman so much. Ironically, I suppose it does not surprise the chairman that one of his junior members would be largely in agreement with him related to the circumstances that we face in this world.

I think that the terrorist circumstances today are just what the gentleman said. We have the melding of being 60 years in the nuclear age with this mindless terrorist element that has no regard for human life, their own or others, and I think that is a recipe of the gravest concern for the United States.

I am perhaps more concerned than anything else about a nation like North Korea selling some type of nuclear weapon or weaponized anthrax or other weapons of mass destruction to al Qaeda. And I think that even underscores further the importance of our presence in Iraq because in so doing, we are keeping the terrorist organizations occupied and, indeed, defeating them in the battlefields and breaking up that network.

□ 2000

Sometimes terrorists, it is a terrible way to analogize it, but teenagers, if there is just one of them, do not get in a lot of trouble, but when they get together, they figure out ways to really get in trouble. I feel like that it is critically important for us to continue to break up the organizational mechanism.

Mr. HUNTER. That is one thing this President has done in moving so aggressively because lots of people cautioned him to hold back and wait and delay; and by moving aggressively, he kept the terrorists off balance. Many people have said, well, how come we have not had more strikes and have not had more actions against Americans. Very simply, when you have a meeting and a bomb-guided precision munition comes through the window and blows up your meeting, it is pretty tough to conspire to kill Americans, and the literally hundreds and hundreds of bad guys have discovered that the Americans were able to find them in places where they thought they were totally inviolate.

That is because of the aggressive posture against terrorism that this President assumed. He did the right thing by doing that.

Mr. FRANKS of Arizona. Mr. Speaker, I think the chairman is exactly accurate. The idea that a good defense is a good offense is certainly not a new concept, but in this case it is extremely appropriate; and as you say, when terrorists are meeting in a tent and a bomb flies in, that can be a real distraction. It can really break up their approach, and I just think it says a great deal for this President in understanding the mindset of terrorists.

The terrorists here are not going to be redeemed, and they are not going to turn over a new leaf or we are not going to be able to negotiate with them. We have to defeat them in the purest terms for the sake of the innocent people both in this country and other parts of the world, and I think the chairman is exactly right.

I yield back to the gentleman.

Mr. HUNTER. Mr. Speaker, I say one other thing to my good colleague. I think I got the name wrong on Gunny Sergeant Jeffrey Bohr. I called him Jeffrey Shore. That shows how good my eyes are after being here for 20 years or so. I just ask the gentleman, since we have got Gunny Sergeant Bohr's citation up there and since the doggone media has literally, with the 127 articles coming out of one newspaper alone about the prison mess involving criminal acts by what so far have been focused, been identified as seven people who have been recommended to be bound over under article 32 of UCMJ for courts-martial, with all that mess occurring and being so focused on by the media, that brave people like those people who are out there fighting in the field for our freedom are not being recognized. This gentleman did not get on the front pages of any newspaper. It was more important to talk about a detainee not getting sugar in his tea; but if the gentleman could read that citation, I think as long as we put him up there, we better get it right. I would ask the gentleman from Arizona (Mr. FRANKS) to help me out on this one. If you could read that citation, I think that would be appreciated, hopefully, by the gentleman's family.

Mr. FRANKS of Arizona. I would be honored to do so. This is on the letterhead of the Secretary of the Navy in Washington, D.C., and it starts:

''The President of the United States takes pride in presenting the Silver Star posthumously to Gunnery Sergeant Jeffrey E. Bohr, Jr., United States Marine Corps, for service as set forth in the following.

''CITATION:

''For conspicuous gallantry and intrepidity in action against the enemy while serving as Company Gunnery Sergeant, Company A, 1st Battalion, 5th Marine Regiment, Regimental Combat Team 5, 1st Marine Division, I Marine Expeditionary Force in support of Operation Iraqi Freedom on 10 April 2003. With his company assigned the dangerous mission of seizing a presidential palace in Baghdad and concerned that logistical resupply might be slow in reaching his comrades once they reached the objective, Gunnery Sergeant Bohr selflessly volunteered to move in his two soft skinned vehicles with the company's main armored convoy. While moving through narrow streets toward the objective, the convoy took intense small arms and rocket-propelled grenade fire. Throughout this movement, Gunnery Sergeant Bohr delivered accurate, effective fires on the enemy while encouraging his Marines and supplying critical information to his company commander. When the lead vehicles of the convoy reached a dead end and were subjected to enemy fire, Gunnery Sergeant Bohr continued to boldly engage the enemy while calmly maneuvering his Marines to safety. Upon learning of a wounded Marine in a forward vehicle, Gunnery Sergeant Bohr immediately coordinated medical treatment and evacuation. Moving to the position of the injured Marine, Gunnery Sergeant Bohr continued to lay down a high volume of suppressive fire, while simultaneously guiding the medical evacuation vehicle, until he was mortally wounded by enemy fire. By his bold leadership, wise judgment, and complete dedication to duty, Gunnery Sergeant Bohr reflected great credit upon himself and upheld the highest traditions of the Marine Corps and the United States Naval Service.

''For the President, the Secretary of the Navy.''

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman for reading that citation and so we have laid out for Gunny Sergeant Bohr's family at least publication of his service to our country and to our flag that will never make the front page of The Washington Post because unless he denies sugar for the tea of detainees at Guantanamo, he will not merit that kind of attention; but we have literally, again, 16,000 Bronze Stars were earned, and all those are not earned for valor. All Silver Stars are earned for valor.

We have got a picture, and I would ask the gentleman if he could hold that picture up. That is the picture of a GI giving some stuff to some kids. That is the story of the American GI. The Marines right now, they went up and got in battle at Fallujah, but you know what they brought to Fallujah? They brought soccer balls to Fallujah because they wanted to help people and to be good and American GIs are good to people.

I am reminded in the days when the liberals were talking about how Vietnam hated us and just wanted us out and if we would just get out of there, by golly, the Viet Cong and the MVA could create a people's paradise. When the GIs left Vietnam, about half that country tried to swim after us; and for years after that, they would get out and push off in a leaky shrimp boat into the South China Sea, some of them to be capsized and drowned, a few of them to make refugee camps like the one in Hong Kong.

I am kind of reminded of Senator KERRY, meeting in Paris with the North Vietnamese leaders must have felt strongly they were on the right side of this thing. I am reminded that when those people pushed off in those leaky shrimp boats and got to Hong Kong and later were forcibly repatriated to what was described as the People's Paradise of Communist Vietnam, if you look at the photographs of those refugees being taken back to so-called people's paradise, you will notice that many of them were shrieking and crying and holding on to the chain link of the detaining facility. They had to be sedated and forcibly removed from that squalid refugee camp because that squalid refugee camp in Hong Kong meant one thing to them that they would never see in Vietnam. It meant freedom, and that is the real story of the American presence in Vietnam.

It is also the story of the American presence in Tokyo. After World War II, we had the capability of doing anything we wanted to the Japanese people, and the warlords of Japan told their people to expect us to be as bad to them as they had been to the rest of the world, when they raped and killed over 100,000 people in Manking, China; when they beheaded many of our American captives; killed a third of our POWs. Yet American GIs walked down the streets of Tokyo and handed out Hershey bars to the kids, and there were almost no incidents of mistreatment of civilians by Americans.

Once again, if you take that drop in the bucket, that one group of people that did wrong at Abu Ghraib and match them against the 300,000 GIs who did right, it should not dominate 127 articles out of one paper alone. So I thank my friend for letting me ramble on here. I think we have had a good discussion. I would like to hear his closing thoughts.

Mr. FRANKS of Arizona. Mr. Speaker, I just would be grateful to listen to your rambling at anytime. I think you so poignantly expressed the nobility of the American soldier. They are the most noble fighting force in the world. There is a verse that says, Greater love hath no man than this, than man lay down his life for his friends, and I am certain of what the American soldier has done.

I find it kind of interesting as a closing thought that one of the members of the Iraq Governing Council and leader of Iraq's Assyrian Democratic Movement that visited here, his name is Younadem Kana, and he came to America and these were his words about our American soldiers in a sense. They are really to all of us.

He said: ''We are calling on America not to stop; to go on with us on this blessed mission, which the Iraqi people will never forget: this blessed mission of liberation, of democracy, and of freedom.''

''The Iraqi people are free now,'' Kana proclaims. ''For first time in the history of Iraq, for the first time in 14 centuries, our neighbors, and the majority of people today, recognize us and acknowledge us. We are all together on the Governing Council, and the cabinet; our rights are guaranteed under the fundamental law.

''We appreciate the losses of the United States of those 700 victims, martyrs we call them, who shed their blood on Iraqi soil. But compare the losses in 1 year of fighting terrorism to the roughly 3,000 people terrorism killed in America in 2 minutes. Think of the $84 billion lost in those 2 minutes, and compare that to the financial cost in Iraq. You have to make these comparisons, and then choose whether to fight the terrorists in the Middle East and keep yourselves safe, or to fight terrorism here, in your own home.''

Then he says, ''I am at risk all of the time. But this is the price of freedom.''

Our soldiers have certainly taught us the price of freedom.

DEFENDING THE HOMELAND

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, we have, I think, had an incredibly interesting hour preceding this and discussion of our efforts in Iraq and indeed around the world in the fight against terror.

I want to talk a little tonight about our efforts to defend the homeland, essentially. Our efforts to deal with the fact that we recognize all the things that we have said up to this point in time, the last hour at least, have been rather ominous. They have been frightening in many ways because they lay out a situation for us that we cannot ignore, and that is this, that our enemies are willing; that they will go to any length to try and bring us down; that they are driven by a theocratic and ideological motivation that knows no bounds. They are fanatical.

Unfortunately, every single day in the paper we see the fact that somebody has decided to commit another act of terrorism, blow themselves up or set off a bomb along the side of the road and kill Americans and kill Westerners and kill members of the coalition forces; and we recognize, as I say, that these people are fanatics. They are driven with a passion that knows no bounds. They will do anything necessary to advance their cause, anything.

That includes, of course, bringing the war here to our shores. We have seen it happen. We also know that it is not just a possibility, that it will happen again. It is a probability. So we have been talking in more grandiose terms for the last hour about how to fight the war on terror.

□ 2015

I must tell you that I sort of reject or am concerned about the use of the word ''terror'' to describe the enemy, because it is an amorphous term. It does not really and truly let people understand exactly what it is and who it is we are up against. I believe that this is a war against fundamentalist Islam. It has been going on for a long time. It has gotten hot and cold. It has been fought in various places around the world and never been really very much at the top of our list of concerns because the oceans have separated us. This war has gone on, East against West, if you will, certainly fundamentalist Islam against Judeo-Christianity for now centuries. This is the latest iteration but it is much more dangerous than any other stage of this conflict because, of course, today's technology provides those folks with an ability to strike us regardless of the fact that we have oceans separating us.

They do so by coming into our country. They come across undefended borders, both northern and southern borders of the United States. They come into Canada where their policy of immigration is so liberal, especially their policy toward people who claim to be refugees, is so liberal that I have only slightly jokingly said that Osama bin Laden could land in Toronto after having cut off his beard, call himself Omar the tentmaker and claim to be a refugee and the Canadian government would immediately allow him entrance into Canada and, by the way, give him $150 for his trouble and tell him to

come back in 6 months for a review of his case.

We know that people have come into both Canada and into Mexico who are in fact terrorists. They are part of the fundamental Islamic terrorist organizations. They come into the United States among a flood of immigrants coming into this country, mostly illegally, across our northern and southern borders, most of them, of course, as we have said over and over, coming for relatively benign reasons, not coming necessarily to be Americans, not because they are hoping against hope to connect up with this thing called the American dream, to disavow their past allegiances, to ignore the country of origin, to break with the old and start with the new. No, no, that is not what is motivating most of the people who are coming into the country at this time illegally. They are coming simply for the economic advantage that the Nation offers.

Of course, that is a very alluring reward and it is one that most of our grandparents had in mind when they came, also. But there was a great difference between the immigration of the 1900s, the early 1900s and late 1800s, not just in the type of people who were coming because many of them were coming also with the desire to cut with the old and attach to the new. That is something my grandparents talked about often. But they also were coming into a country that was quite different. As I have said on many occasions, the country into which they came was a country that required much of them. When they got here, they had two choices and only two choices. They could work or they could starve. There was nothing else. There was no social service benefit. There was no aid to families with dependent children. There were no food stamps. There was nothing that was provided to them but what their own labor could in fact develop and provide. As a result of that and the fact that you had people in the United States who expected people who came here to become Americans, you had a great deal of pressure on the immigrant community coming into the country, a great deal of pressure to integrate into the society. Sometimes that took an ugly tone and aspect but for the most part it happened in a relatively communal way.

Immigrants came into our public school systems where they were taught in English. Their parents attempting to get better jobs recognized that one of the things they had to do in order to acquire that next step up the economic ladder was to learn English. In doing so, we saw that the pressure to integrate and to assimilate from our side and the pressure to integrate and assimilate from their side worked relatively well, so that out of all of the ghettos, the Italian ghetto, the Jewish ghetto, Hungarian, Polish, you name it, out of those ghettos that were scattered along our East Coast and some of our major cities in the Midwest even, out of them came a group of people that spread out over the country as Americans, losing, detaching their identity, detaching from their past identity and connecting with the new one.

This was a different country, as I say, and to a certain extent people motivated by different reasons when they came. We have changed a great deal, of course, about who we are, and we have begun to become obsessed as a nation and a culture with the concept of multiculturalism and diversity.

Recently I was told about a school in my district, a community college in Colorado, I believe it was Red Rocks Community College, where they had a diversity week that had been planned and booths would be set up to again explore and heap accolades upon the fact that we are such a diverse society. A group of students looking at the array of booths that had been set up realized that they did not find themselves represented at any of these different booths because they were simply Americans. They were not identifying with people who thought of themselves as something else before they thought of themselves as Americans. And so they went to the administration at the school and they asked if they could set up an American booth. After some consternation, they were allowed to do so. So you had among all of the other booths, and I do not know how they were named or how they were divided, but among all the booths talking about the different groups of people who are here, we had another one called the American booth.

We have, of course, seen hundreds of examples of what happens in our schools and in our society in general when the media and the academic institutions are all devoted to focusing in on the issue of diversity, focusing in on all the things that separate us as a people and not by the things that hold us together. Diversity is a fine thing and we can enjoy it and we can explore it, but it cannot ever be the only thing that holds us together because, of course, it is oxymoronic to even think that that is a possibility, that diversity is our only commonly held value.

Yet that is what is happening to us. That is what I see in the schools I go to. That is what I see continually being held up as the ultimate goal for all Americans, to be diverse and to worship multiculturalism. It is a cult that has developed around this whole thing. I call it the cult of multiculturalism because we have people that are driven and consumed by it to the point where anything that is said that suggests that American culture, that Western civilization has value, anything that even intimates that there is something about us that is admirable as a nation is looked upon with horror, with a sort of revulsion, with a great deal of angst when you talk about it. Somehow the cult of multiculturalism has gotten a lot of people to believe that the only way that you can appreciate or express your appreciation for any other culture in the world is to denigrate your own, is to say there is something wrong with us.

Not too long ago, I went to visit a school in my district. It was a brand new building. The first classes had been in only for a few months. It was a high school in Douglas County, a very upscale county in Colorado, one of the fastest growing counties in the United States. I was asked to go to speak. I went. The entire student body, about 250 because, as I say, the school had just opened, it was the first classes, about 250 students came into the auditorium to hear and their teachers lined up on the sides of the walls and we had an interesting discussion. After about 15 or 20 minutes, they started sending up questions. The first question they sent up, the first one I opened said, what do you think is the most serious problem facing the United States? I said, well, let me ask you a question and then perhaps I can answer that question for you. How many of you believe you live in the greatest nation in the world? A simple question, one that I think most people would assume would elicit an immediate and positive response. How many of you think you live in the best country in the world, the greatest nation in the world? Interestingly, after a moment or two of fairly uneasy silence, about two dozen kids raised their hand. The rest looked and even those that raised their hands looked at the teachers that were lined up on the wall and were leery about it. You could see this. Do not get me wrong. I am not suggesting that the other 200 kids in the auditorium were disagreeing with that necessarily. I did not get that feeling. But what I think I saw there was a group of students who had been completely and totally uneducated about who we are, what we are and whether or not there is any value here. Therefore, if they said yes to that question, who knows, somebody, a teacher, perhaps, seeing them do that, may have when they went back into their room asked them to explain why they said that and they had challenged them, almost certainly would have, and they could not defend it. That is the feeling I had. They were not intellectually armed with the ability to make that defense.

I suggest to you that we could do this in any high school in the United States of America and we would get varying degrees of response but you would not, I think, for the most part be surprised to hear if we did this that a majority of students chose not to raise their hands in support of that concept. And some would be doing it because they do not believe it is, but in fact there are other cultures' ideas or cultures and nations as good if not better than the United States and so why should they be so chauvinistic to express a desire to explore the greatness of America.

And so we talked a little bit about that. Actually the principal came up to me at the end and was concerned about

it. Remember, he had only been there a couple of months himself. I certainly do not blame him. As a matter of fact, I was very encouraged by my discussion with him. He was concerned about what he saw. He had read a book that I had read and we talked about it at length. It was called ''Clash of Civilizations'' by Samuel Huntington. Mr. Huntington has a new book out now that I will be mentioning in a minute or two. We were talking about this phenomenon, of what is going on in the United States, about how difficult it is now for us as a nation to really think about who we are and where we are going and what it is we are trying to accomplish and whether or not it is worth it. It is easy for us to react viscerally when we are attacked. When we see planes crashing into buildings and thousands of Americans dying, we react viscerally.

I will never forget reading about what was happening on a street in Boston where there had been several flags flying, none of which were American flags, up to September 11 and then right afterwards on this street in Boston, there appeared something like 50 American flags and a bunch of others.

□ 2030

And every single week since September 11, there are fewer and fewer American flags flying there. In fact, now we are back to the original number of other flags being flown on this particular street, and we have sensed that there is a loss of, I do not want to say enthusiasm for this war, for our actions in it, but we can tell it is diminishing; and you really have to ask yourself whether or not that is the reason that it is happening, is that it is partly a result of our own unwillingness to, number one, understand who we are fighting. That is, it is not just a terrorist, that it is an ''ism,'' fundamentalism, Islamic fundamentalism, and that it is threatening our way of life. It is threatening us, that the people who hold the beliefs that we call Islamic fundamentalists are people who will come here, and who are here and who would kill every single one of us and our children, because we do not fit with their view of the world.

If we do not see this and we do not think of it and it is just this, quote, war against terror, we can easily lose, I think, the willingness to continue in the pursuit of the goals which I said in the earlier hour I believe to be admirable.

I worry about the issue, and I talk about immigration, and I talk about what is happening inside our country, this cult of multiculturalism; and people suggest that it is confusing to them to understand how we connect the two, but I think it is relatively easy. It is simple.

The cult of multiculturalism is problematic. It is propped up by massive immigration and by just the political forces that are arrayed in the United States for open borders, for sort of a new world order.

I will never forget having a discussion in Mexico with a gentleman by the name of Juan Hernendez, who was the head of something called the Ministry for Mexicans Living in the United States, which I thought at the time was a strange name for any sort of ministry. I asked him maybe 2 years ago what it was about, and he said, Well, it is to increase the flow. And I said, The flow? He said, Yes, the flow of people into the United States, of Mexican nationals into the United States. I said, Why would you want to do that? He said, Well, Congressman, it is pretty simple. Well, first of all, we have a population of people in Mexico between the ages of 18 and 25 that has doubled in 10 years. He said, The unemployment rate for that particular group of the population is about 40 percent. That is a very unstable situation. Moving them north where there are jobs, that is good for us, relieves the problems that we have here in terms of unemployment.

He said, then of course a secondary benefit as a result of this movement of people, and he just kept calling it migration instead of immigration, he said, And the good thing that happens as a result of this migration is the fact that all those people who go send money home to Mexico.

In those days, that was 2 years ago, it was about $13 billion a year. It is closer to 15 or $16 billion dollars a year now, and reports just came out a little bit ago. By the way, they are called remittances. That is what the term is to describe the dollars flowing from the United States to countries outside our borders, and the remittances now comprise about $30 billion flowing to Latin America alone, somewhere around 40 to $45 billion going out over the rest of the world, in total, I should say. This is an enormous, enormous amount of money; and it accounts actually for more than 10 percent of the gross domestic product of at least seven or eight countries out there.

In Mexico it is more significant than any foreign investment whatsoever, than any corporations investing in Mexico. It is more significant than tourism dollars. It is second only, in terms of the dollars coming into the country, to Pemex, the country's oil company, governmentally owned oil company.

So he said, This is an enormously important thing for us, moving our unemployment north, having them employed, and sending money back. But there was something else that he mentioned. He said, And besides that, having lots of Mexican nationals in the United States, and, by the way, he did not distinguish legal or illegal nationals in the United States and he did not care and he told us it did not matter to him, that that distinction was not important, just moving people north was the goal of the Government of Mexico.

Again, when we talk about what is different today about immigration policy, what is different today about what is happening in the world, I guarantee my colleagues in early 1900s, late 1800s, few, if any, governments around the world were actually pushing their people into the United States, were actually encouraging the depopulation of their own country.

But now Mexico is not alone in this. Now Guatemala, El Salvador, Honduras, all kinds of countries are pushing us constantly to open our borders. They are always talking about the need for us to relax our immigration policy. Remember, they relaxed their immigration policy not one iota. Mexico and all of these countries have a very strong immigration policy. If one sneaks into their country, they are in big trouble. They will go to jail if they are found there without the proper documents.

I have visited the detention camps in Mexico. They are not nice places. They are not places where people are given nice uniforms, shoes, clothing, a bunk, chess tables, checker tables, basketball courts. And what I am describing of course are the detention centers that we provide in the United States. Free medical care. By the way, one comes into the detention center and the first thing they do in the United States is get a physical, a dental and medical exam. Anything that is wrong with them we will take care of. They have actually turned themselves in in order to take advantage of the medical.

Again, it is not really much of a joke, but I am amazed at the irony of the fact that there are two groups of people in the country that can get all of the free medical attention they need, and those are people who are in prison and people who are here illegally. They have access to all of the medical facilities in the United States. Even when we arrest them for being here illegally, we provide them mental and dental treatment. If they have bad teeth, we will take care of it. If they have cancer, we will send them to an oncologist. One can get an MRI. There are huge machines that are not available to people in my own district, that cannot afford that kind of medical help. But we provide it to people who are coming here illegally, as opposed to what the other countries in the world do for people who sneak into their country. If I sneak into Mexico and I am found there and I cannot prove that I am a Mexican citizen or that I have a visa, if I am in Mexico or Guatemala or any other place almost on the Earth, if I say I am sorry, I do not have the documentation, can I send my children to the schools in Mexico or Guatemala or Honduras or France or anywhere else in the world, of course not.

Can I expect to be treated if I am there with some disease and they know I am there illegally? No. Can I get a driver's license in any country in the world if I am there illegally? Of course not. Any country but one. Can I get social service benefits if I am in any other country in the world illegally? Of course not. Yet all of these countries

demand from us a policy that says, Open your door, we want in, we will benefit. The government benefits as a result of the fact that you are so stupid that you do not secure your own borders, and, by golly, we do not want you doing it.

And as I mentioned, Mr. Hernendez said that the other good thing about the movement of massive numbers of Mexican nationals into the United States was that, in fact, he said, They will influence your government's policy vis-a-vis Mexico, just their presence, he said. Just the numbers, he said. That is certainly true, absolutely true, and it was so candid. It was so refreshing to have somebody actually say what we all know to be true, but so many people want to skirt that issue. Why do Members not find it bizarre or peculiar at least that the President of Mexico or the President of other various other countries in Latin America are demanding that we simply open our borders?

And they are doing many things to try to force us to do that. They are trying all kinds of diplomatic ways of doing it. They are, interestingly, even using the issue of treaty relationships, extradition treaties, in order to pressure us to open our borders. Mexico has decided that they will not return anybody to the United States who is wanted here for a crime for which they could be sentenced to death. Not too long ago they decided to expand that definition of cruel and unusual punishment to anybody who could possibly be sentenced to life in prison. That is cruel and unusual punishment. Let me tell the Members if they have ever been around, as I say, a Mexican prison, they would suggest it is a lot fewer years than life in prison that could be described as cruel and unusual in that system. But, nonetheless, that is their position. And now we have got hundreds, in fact, even thousands of people having committed murders in the United States, fleeing to Mexico to seek protection of the government.

David March, a Los Angeles County deputy sheriff, was pulling over a gentleman in the streets of Los Angeles not too long ago, and when he walked up to the car, this person in the car shot him in the torso. He fell to the ground. The guy got out of the car, put two bullets into his head, waved some sort of gang sign, got in and drove off. He is now in Mexico. Everybody knows where he is. Everybody knows where this gentleman is. They will not extradite him. By the way, we found out that he had twice before come into the United States illegally, twice before was returned to Mexico, and of course, because the borders are porous, just turned around and walked in. And by the way, there were, as I understand it, outstanding warrants out on him at the time for violent crimes.

Now Mexico knows exactly where he is, will not send him back. And when we ask why, they say it is because the court said that they cannot send people back for cruel and unusual punishment. Here is the truth of the matter: they will not send him back until we liberalize our immigration policy with them.

There are now 600 warrants out in California alone, in the Los Angeles County area alone, 600 warrants, murder warrants, out for people who fled to Mexico; 300 more in the rest of the State, almost 1,000 people alone from Mexico spread cross the United States. Who knows how many thousands of other people have sought the protection of the Mexican Government after having committed heinous crimes here. And Mexico refuses to do anything about it, while simultaneously demanding that we open up our borders.

It was impressive that Mr. Hernendez would say what he said. He went on, by the way, to say something at the very end of the conversation that startled all of us. There were three Members of the Congress there. And again his candid response to our questions was just really quite amazing. When we all suggested and I suggested that I thought the actions by his government could actually be called aggressive actions against another country, using their people, using their immigration and our immigration policy to actually try to change America, he said, Congressman, in a relatively condescending way, You know what? It is not two countries. It is just a region.

Maybe so, in his mind anyway. And in the minds of many people here in the Congress, certainly in the administration I know there are people who believe that is the case that borders are no longer of any value, they are irrelevant, and they only serve to impede the flow of goods and services and people; and the sooner that we essentially get rid of them and move toward a European Union model, the better we are.

□ 2045

The next iteration of that movement in the United States or on the North American continent will be the Free Trade of the Americas coming up here for a vote at some time, we are not sure when, they are still negotiating, but that is what in store.

It is always couched in the language of ''free trade.'' Certainly I came here as a free trader. I am more and more concerned about the implications of free trade, and especially the immigration implications of free trade, certainly the job implications of free trade.

But, that is where we are moving toward, this concept, this world of just a region and not nation-state. The idea of the nation-state is old, anachronistic, and harmful, in that we should not be teaching our children that there is something unique about America, because, after all, we are soon going to sort of expand our horizons and we will not be thinking of things like the nation-state any more.

I worry about the degree to which that clash of civilizations that Samuel Huntington talked about can be won by the West if we become more and more confused about who we are, about what it is we are trying to accomplish in the world and why who we are matters.

This is Mr. Huntington's latest tome, it is called Who Are We? Who Are We? It has only been out for a short time. I have gotten about three-quarters of the way through it on plane flights back and forth from my home in Denver to Washington.

It is a fascinating read, and I certainly would recommend it to anyone out there who is interested in this kind of an issue, because he asks a very important question: Who are we? He talks about the implications of massive immigration into the country and how this exacerbates the problem of trying to figure out in fact who we are, when internally, as I say, we have changed ourselves.

The cult of multi-culturalism tells our children, and certainly tells immigrants coming here, they should not connect to anything we think of as an American ideal; that we are just a culture, just a place on the planet, we are all just residents. That is what it is, we are just residents here, with no other significance; and that soon all boundaries, all borders will be gone, and we will all be joining hands and singing Kumbaya.

Well, it will be out of tune, I will tell you that, and I do not believe for a moment that that is the world, that that kind of idealistic impression of where we could be, is where we indeed would go.

I believe that the concept of the nation-state is important. I believe that the United States of America is unique in many ways. It is certainly unique in that it is the only country, when it was started in the 1770s, it was the first country ever started on the basis of ideas alone.

That is enormously important for us to think about. It was not a group of people who were necessarily held together by ethnicity; it was not a group of people held together because a king or monarch had drawn a circle or lines around a particular chunk of land and said this is a country.

Our country started because of a set of ideas. It is true, for the most part, the people here at the time were much more homogenous than today's society, but we were able to sustain the ideas and ideals of America because the people coming here and the people here in a way forced that assimilation and understanding and acceptance. They said if you are going to be here, you have to speak English and you have to think about yourself as an American first, and you cannot have a thing called dual citizenship.

Today there are millions, I saw an estimate not long ago of 10 million Americans, who carry dual citizenship. It spiked right after Mexico allowed Mexican nationals to claim dual citizenship also. Our neighbors to the south are wonderful people, and it is

important to understand that in order to debate this issue successfully and with any degree of hope that we can be successful in moving the public policy of this country in one way, it is important to know that you should never, ever, ever come to this issue with animus in your heart for any people or Nation or ethnic group. It is not a racial issue in the slightest.

The people who argue this, or on the other side of this debate, will constantly try to change the discussion and change the debate to some sort of racial thing. They do that usually when they run out of all intellectual argument, and that is the last arrow in their quiver, racist, xenophobe, ethnocentricity, all of these things that are epithets that most people in this room would certainly shrink away from and would resent being called. No one wants to be called those things.

The hope of our opponents in this issue is they will, by using those terms, they will eventually shift the debate away from the real issues, as to who we are, where we are going and how we are going to get there as a Nation, as one group of people held together by a common set of ideas. Instead of that, we will want to talk about personalities and cast aspersions and make people think less of you because of what names you are called.

But it has nothing to do with that. At least it certainly does not have anything to do with that in my heart or mind. But it is a strong desire to see us think about these issues in a rational way, and begin to think about the importance of establishing and reestablishing borders, securing those borders, not just because we know people are coming across for the purpose of doing us great harm, but also because it will help us begin to once again think about who we are and determine whether or not in fact we are worthy to be here and be the light shining to the world that Ronald Reagan so eloquently described us as.

There is nothing, absolutely nothing, that guarantees our success as a civilization; nothing. Certainly older ones, certainly ones that were more expansive, had more of a far-flung empire and thought of themselves as impervious to any sort of aggression, are gone, they are below the sands of time, and the people living in those civilizations that are long since gone certainly thought to themselves for the most part that they were going to be there forever.

There is nothing that says we will achieve that. There is nothing that says we will achieve another 50 years of preeminence in the world if in fact we lose sight of who we are, if we cannot answer this question that Samuel Huntington asks.

So we have to attack this from many angles, and I try to talk about it, as well as I can anyway on evenings like this, try to encourage people to think about these issues. And simultaneously we have to address the more mundane aspects of it. Will we increase the number of Border Patrol? Will we actually use the military assets that we have to secure our borders? Will we go to other countries around the world and tell them that we need them to help us secure our own borders, just as they secure theirs, and encourage them to stop trying to change America in order to benefit their own situation, and to begin thinking about how they can internally change who and what they are to accomplish what we have.

As long as we allow ourselves, as long as we allow America to be the pressure valve, the release valve, for the world, for the Third World, there is very little pressure there left to push back and say to countries, you have to figure out a way to do this yourself, and do it internally.

We have to tell our local politicians, again, this is the mundane aspect of it, this is the coming down to the nitty-gritty aspect of our discussion about this rather heady topic sometimes, and that is what we have to tell our State and local officials that they have the responsibility, and that responsibility is to help maintain the integrity of the United States of America; and that when they pass idiotic laws, like sanctuary city laws, or when States like Maine declare themselves to be sanctuary States, that all of the misguided, gooey, sort of idealism that may have gone into the discussion and may have gone into the decision-making process in order to get them to that point is not going to help us in the long run, and it is going to in fact hurt us.

It is very difficult. The Federal Government has a rather schizophrenic history of dealing with the issue of immigration. Sometimes we tell the old INS to go out there and do their job; to go into work sites and find people who are working illegally; to find the employers who are in fact employing people who are here illegally. So they do it. They did it in Georgia a few years ago, they did it in Nebraska, in the packinghouses of Nebraska and the onion growers in Georgia. And they were immediately, immediately, excoriated by Members of the Senate from those States, and certainly Members of the House in those States, and told to stop it, knock it off; you are bothering our producers and our business interests.

So the INS said, I was just trying to enforce the law. They were told, well, the law is good to talk about. It is not good to enforce it, so forget about it.

Then we get mad and we say, how can it be that we have got 13 to 15 million people in this country illegally, we have got 400,000 or 500,000 actually ordered deported who simply walked away, they are out there somewhere? Every time we pick someone up who is now arrested or alleged to have plotted some act of violence against the United States, in the last few days you have been reading about this, all of these people, of course, are here illegally.

How did they get here? What is going on? How come Homeland Security did not protect us? They get a lot of mixed messages from this body and the other body. It is very difficult for them to figure out what exactly it is they are supposed to do. And we have to commend every single man and woman who works day and night trying to defend those borders.

I have visited the northern border and the southern border many times. I have commended those people who work in those jobs, thankless jobs, frustrating jobs, because they know that for every one person that they stop from getting into this country illegally, two or three are getting by them. Sometimes they are getting by because of the stupid bureaucratic policies we have in place, and sometimes just because they are overwhelmed.

When the President makes a speech, as he did in December, and holds out the possibility of amnesty, and although he does not like calling it amnesty, of course, that is exactly what it was. When he holds that carrot out there, what do you think is going to happen? We are going to be flooded by people trying to get into this country.

Of course, the numbers have gone up dramatically in the last 6 months. Why? It is strange. How could this happen? I will tell you why. The Border Patrol was actually taking surveys, why are you coming? ''Amnesty.'' This is a word they learned. ''I am coming for amnesty.''

I said when the President gave the speech that even if that bill he has proposed, even if that concept does not become law, the fact is that it has already done great damage.

You are not going to hear a debate about this issue during the campaign, because, for one thing, I will tell you what happened on our side. The reaction to the President's speech was overwhelmingly negative by most Americans, Democrats and Republicans. So you are not going to hear much about it anymore.

On the Democratic side they also know that their position and the position of Mr. KERRY is that of open borders, of greater immigration. The only thing wrong with the President's plan they said is it did not go far enough. They also know that that is not really the message that is going to attract a lot of voters to their party.

A certain segment they want to placate, pander to, both sides, so we will use it in selected venues, but we are not going to be talking about it during the debates, because this is just not something either side really wants to bring up, because it attracts very few people when you start talking about amnesty, when you start talking about the fact you are willing to open the borders and you are not willing to actually look at the issue of immigration in any detail and any depth.

□ 2100

But we need to do that. That is exactly what we need to do, is to look at this issue in detail and in depth. It is

more important than just the jobs issue, although that is enormously important, especially if you are one of the men and women who has lost their job as the result of the importation of massive numbers of cheap labor and then sometimes not so cheap labor, higher-priced labor in the field of technology, but lower priced than when you were doing the job. If you are some of the hundreds of thousands of people who have been thrown out of work by H1B visa recipients, people who have come here primarily from India; again, good, hard-working people, nothing against them or who they are, but they came here. Why? Because they will work for less.

The President said he wants to make sure every willing worker meets up with every willing employer. And I keep thinking, now, you really do not mean that, Mr. President. Because really there are billions of willing workers out there, and they are willing to undercut whoever is here working; and the people who are the most affected by this, the most negatively affected immediately are, of course, low-income earners in this country whose wages have been held down because of the massive numbers of people coming here, low-skilled, low-wage workers.

This does not accrue to our benefit ever at any place, at any time. It does not accrue to our benefit from the standpoint of the ''taxes'' these folks pay, because I assure my colleagues, they soak up a lot more in revenue in the provision of service and in the creation and maintenance of the infrastructure necessary to support millions of people who are here illegally. They soak up far more dollars there than they ever provide through the tax system which, of course, is a progressive tax which says if you make very little, we take very little away. Not only that, we will not only not take very much money away if you do not make much; we will give you some money.

So now, the greatest scam going is coming here to the United States, filing income tax forms, getting false Social Security numbers, filing forms, listing a whole bunch of people on that form who are your children, and the IRS will give you an ITIN, an Individual Taxpayer Identification Number, for each one of those children who are ostensibly, supposedly in some other country, but you claim them, you can have them, you claim them; and you of course pay no taxes because you have so many deductions, and you in turn get an earned income tax credit.

So it is not a net benefit to the country in any way I can think of. We have plenty of diversity. We really and truly need to start thinking about what holds us together as a Nation and not what splits us apart. And we have to stop kowtowing to the other countries around who see us as the sugar daddy who will keep them in power, keep their corrupt governments in power by allowing dollars to flow back into those countries by the people they have essentially helped shove into the United States of America. And I mean that literally, sometimes with buses hired by the Government of Mexico to bring people to the United States, sometimes just to the border, let them off, walking into the border, into the desert. That is how much their government cares about them. Or how many of them perish.

Then of course we are told it is our fault that people are dying in the desert. And I keep saying, now, wait a minute, wait a minute. Just tell me, what have I missed here? How many people, how many people have actually died coming into this country through a port of entry? How many have starved to death or died of dehydration or had some other kind of thing befall them coming through the right way. Nobody, of course.

There is a way to come into this country. It is absolutely safe. It is called a port of entry, and it is called with our permission. If you choose to come some other way, some bad things could happen to you; but it really is not our fault, no matter how bad they want to make us feel that this is happening. We take a million and a half people a year legally. We take another half a million or so through a visa process. We are the most liberal country in the world when it comes to taking people in here legally. And yet, of course, many millions more come illegally. Why? Because of course we have people here who want to employ them. We have the cheap labor crowd. We have people on the other side of the aisle who see this as a source of votes. So we see this then that of massive immigration, a source of votes over there, a source of cheap labor over here. That is why we cannot get any sort of an agreement.

I am going to have, Mr. Speaker, several amendments for the bills that are coming up this week, especially the Homeland Security bill, and I am going to try to amend the appropriations bills saying that any State or locality that actually provides sanctuary for people who are here illegally, refuses to help the INS, or now the Bureau of Immigration and Control and Enforcement, refuses to help us enforce the law; by the way, it is already right now on the books. In 1996 we passed a law saying that, in fact, it is illegal for States or localities to prevent the flow of information to the INS or from INS.

Of course, unfortunately, there is no penalty, so people are doing it all over the place. Cities accepting the matricula consular, telling any national living here that they can have all of the benefits they want by simply showing a card that is given to them by a foreign government, not by the United States. Giving people drivers licenses, giving people who are here illegally all kinds of benefits that had been heretofore allowed to go only to people who are citizens. But remember, that concept of citizenship is under attack. It means nothing, it means nothing to many people in this country, and if it means anything at all, it is a negative connotation: citizenship.

So we teach our children that they should not be citizens of the country; they should be citizens of the world, if anything. And we do this, again, as I say, we pursue this kind of bizarre social policy at our peril. And when I introduce these bills, we will see just how far this pressure has gotten us. We will see the fact that this cult of multiculturalism truly has infected even this body. Because I will suggest that no city or State that gives a driver's license should be able to get a grant from the homeland security.

I am going to eventually try to do the same thing with the transportation bill and say that they cannot get Federal funds for highways if you give illegal aliens drivers licenses. It will go down. I did this last year. I think we got about 122 votes. We will see, maybe we will gain a little, maybe we will lose a little. Yet if we were to ask every single American how they would vote on this, without exception I know how it would come down. My amendment would win overwhelmingly. But in this body, again, held captive by the cult of multiculturalism, it will go down.

I am going to offer an amendment later on to the appropriations bill for foreign operations, which is the bill that we use to provide money to foreign governments, the foreign aid bill. I am going to say that any country that is receiving remittances from the United States, that the amount of remittances coming to that country will reduce the appropriation we have for them in the foreign aid bill. Because after all, if foreign aid is simply the transfer of wealth from one country to another, it is happening through remittances and probably a lot more effectively than providing it by way of a check to a foreign government, oftentimes corrupt government that pockets the money themselves. Again, put that out to a vote, Mr. Speaker, and I suggest to my colleagues that without exception, it would be overwhelmingly passed by the people of this country.

It will not go far here, at least not this time. Maybe the next time, maybe the time after that and the time after that. Because I guarantee my colleagues I will bring it up as long as I can, as often as I can, in every venue that I can. In every bill that I can try to attach something to, I will, because I want the debate to occur, and I want the American people to see just how far we have moved away from their idea of what America is all about, to the one of the elites, what we think America should be all about. Just a region, after all, not a separate country.

They are wrong, and as long as I have breath and I am able to express an opinion on this floor, I will state that. They are wrong.

ARMY SPECIALIST KYLE GRIFFIN: LOVED BY MANY, A HERO TO ALL

The SPEAKER pro tempore (Mr. TANCREDO). Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

Mr. GARRETT of New Jersey. Mr. Speaker, I wish to simply begin by associating myself with the comments that the gentleman made earlier, along with those of the gentleman from Arizona (Mr. FRANKS) and the gentleman from California (Mr. HUNTER) with regard to the war in Iraq and specifically our brave men and women who are fighting our cause over there.

Specifically at this time, I just want to bring to the attention of this House and this body and also to Americans at home one particular soldier, Army Specialist Kyle Griffin, a man, a hero, who made the ultimate sacrifice on behalf of this Nation.

Some men will be remembered for heroic acts, others for the type of persons they were. Kyle Griffin will be remembered and treasured for both of these.

In a world that has become a place of hostilities and violence, of terror and fear, the brave men and women like Kyle Griffin are selflessly and tirelessly building and ensuring peace and liberty throughout the globe.

Back on May 30, 2003, one of our own was taken from us. Kyle was a young man that everyone of his Emerson community in New Jersey was proud of; and he will be surely missed by his mother, his father, his sister, and his brother. As an Army Specialist, Kyle was a dedicated soldier and a true patriot.

Since the tragic day of September 11, our country has been at war, it has been a war on terror. Kyle was one of the many heroic Americans who heard the call to defend this Nation and did so by donning our country's uniform.

Kyle made the ultimate sacrifice to preserve and defend the freedom and liberty that every American loves and cherishes. We must all vow now to never forget the price that has been paid in all of our names.

Army Specialist Griffin will always be remembered as a true hero and an American who forever we can be proud of. I pray that God may bless his family.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for June 14 and today on account of official business.

Mr. LAMPSON (at the request of Ms. PELOSI) for today before 3:00 p.m. on account of airline delays.

Ms. GINNY BROWN-WAITE of Florida (at the request of Mr. DELAY) for today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material):

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. WELDON of Florida) to revise and extend their remarks and include extraneous material):

Mr. TIAHRT, for 5 minutes, today.

Mr. TERRY, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GARRETT of New Jersey, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1822. An act to designate the facility of the United States Postal Service located at 3751 West 6th Street in Los Angeles, California, as the ''Dosan Ahn Chang Ho Post Office''.

H.R. 2130. An act to redesignate the facility of the United States Postal Service located at 121 Kinderkamack Road in River Edge, New Jersey, as the ''New Bridge Landing Post Office''.

H.R. 2438. An act to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the ''Major Henry A. Commiskey, Sr. Post Office Building''.

H.R. 3029. An act to designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the ''S. Truett Cathy Post Office Building''.

H.R. 3059. An act to designate the facility of the United States Postal Service located at 304 West Michigan Street in Stuttgart, Arkansas, as the ''Lloyd L. Burke Post Office''.

H.R. 3068. An act to designate the facility of the United States Postal Service located at 2055 Siesta Drive in Sarasota, Florida, as the ''Brigadier General (AUS–Ret.) John H. McLain Post Office''.

H.R. 3234. An act to designate the facility of the United States Postal Service located at 14 Chestnut Street in Liberty, New York, as the ''Ben R. Gerow Post Office Building''.

H.R. 3300. An act to designate the facility of the United States Postal Service located at 15500 Pearl Road in Strongsville, Ohio, as the ''Walter F. Ehrnfelt, Jr. Post Office Building''.

H.R. 3353. An act to designate the facility of the United States Postal Service located at 525 Main Street in Tarboro, North Carolina, as the ''George Henry White Post Office Building''.

H.R. 3536. An act to designate the facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, as the ''Army Staff Sgt. Lincoln Hollinsaid Malden Post Office''.

H.R. 3537. An act to designate the facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois, as the ''Army Pvt. Shawn Pahnke Manhattan Post Office''.

H.R. 3538. An act to designate the facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, as the ''Marine Capt. Ryan Beaupre Saint Anne Post Office''.

H.R. 3690. An act to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the ''Barber Conable Post Office Building''.

H.R. 3733. An act to designate the facility of the United States Postal Service located at 410 Huston Street in Altamont, Kansas, as the ''Myron V. George Post Office''.

H.R. 3740. An act to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the ''Oscar Scott Woody Post Office Building''.

H.R. 3769. An act to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the ''Ben Atchley Post Office Building''.

H.R. 3855. An act to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the ''General John J. Pershing Post Office''.

H.R. 3917. An act to designate the facility of the United States Postal Service located at 695 Marconi Boulevard in Copiague, New York, as the ''Maxine S. Postal United States Post Office''.

H.R. 3939. An act to designate the facility of the United States Postal Service located at 14–24 Abbot Road in Fair Lawn, New Jersey, as the ''Mary Ann Collura Post Office Building''.

H.R. 3942. An act to designate the facility of the United States Postal Service located at 7 Commercial Boulevard in Middletown, Rhode Island, as the ''Rhode Island Veterans Post Office Building''.

H.R. 4037. An act to designate the facility of the United States Postal Service located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the ''Richard G. Wilson Processing and Distribution Facility''.

H.R. 4176. An act to designate the facility of the United States Postal Service located at 122 West Elwood Avenue in Raeford, North Carolina, as the ''Bobby Marshall Gentry Post Office Building''.

H.R. 4299. An act to designate the facility of the United States Postal Service located at 410 South Jackson Road in Edinburg, Texas, as the ''Dr. Miguel A. Nevarez Post Office Building''.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on June 10, 2004 he presented to the President of the United States, for his approval, the following bill.

H.R. 1086. To encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

ADJOURNMENT

Mr. GARRETT of New Jersey. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 12 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 16, 2004, at 10 a.m.

NOTICE OF ADOPTION OF AMENDMENTS TO THE PROCEDURAL RULES

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, June 15, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: According to Section 303(a) of the Congressional Accountability Act of 1995 (''Act''), 2 U.S.C. 1383(a), the Executive Director of the Office of Compliance shall, ''subject to the approval of the Board [of Directors of the Office of Compliance], adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.''

The Executive Director and Board of Directors of the Office of Compliance are transmitting herewith the enclosed Amendments to the Procedural Rules of the Office of Compliance for publication in the Congressional Record on the first day on which both Houses of Congress are in session following this transmittal. See section 303(b) of the Act, 2 U.S.C. 1383(b).

These amendments to the Procedural Rules of the Office of Compliance shall be deemed adopted by the Executive Director with the approval of the Board of Directors effective on the date of publication of this Notice of Adoption of Amendments to Procedural Rules in the Congressional Record, and shall be in full force and effect as of that date.

Any inquiries regarding this Notice should be addressed to the Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540; 202–724–9250, TDD 202–426–1912.

Sincerely,

SUSAN S. ROBFOGEL,
Chair of the Board of Directors.
WILLIAM W. THOMPSON II,
Executive Director.

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

INTRODUCTORY STATEMENT

On September 4, 2003, a Notice of Proposed Amendments to the Procedural Rules of the Office of Compliance was published in the Congressional Record at S11110, and H7944. As specified by the Congressional Accountability Act of 1995 (''Act'') at Section 303(b) (2 U.S.C. 1384(b)), a 30 day period for comments from interested parties ensued. In response, the Office received a number of comments regarding the proposed amendments.

At the request of a commenter, for good reason shown, the Board of Directors extended the 30 day comment period until October 20, 2003. The extension of the comment period was published in the Congressional Record on October 2, 2003 at H9209 and S12361.

On October 15, 2003, an announcement that the Board of Directors intended to hold a hearing on December 2, 2003 regarding the proposed procedural rule amendments was published in the Congressional Record at H9475 and S12599. On November 21, 2003, a Notice of the cancellation of the December 2, 2003 hearing was published in the Congressional Record at S15394 and H12304.

On February 26, 2004, the Board of Directors of the Office of Compliance caused a Second Notice of Proposed Amendments to the Procedural Rules to be published in the Congressional Record at H693 and S1671. The Second Notice included changes to the initial proposed amendments, together with a brief discussion of each proposed amendment, and afforded interested parties another opportunity to comment on these proposed amendments. (The Second Notice was also published in the House version of the Congressional Record on February 24, 2004. However, because the Senate did not publish the Second Notice on that date, the Second Notice was published on February 26, 2004.)

The comment period for the Second Notice of Proposed Amendments to the Procedural Rules ended on March 25, 2004. The Board received a number of additional comments regarding the proposed amendments.

The Executive Director and the Board of Directors of the Office of Compliance have reviewed all comments received regarding the Notice and the Second Notice, have made certain additional changes to the proposed amendments *inter alia* in response thereto, and herewith issue the final Amendments to the Procedural Rules as authorized by section 303(b) of the Act, which sates in part: ''Rules shall be considered issued by the Executive Director as of the date on which they are published in the Congressional Record.'' *See* 2 U.S.C. 1383(b).

The complete existing Procedural Rules of the Office of Compliance may be found on the Office's web site: www.compliance.gov.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 11 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within that Branch. Section 303 (2 U.S.C. 1383) directs that the Executive Director, as the Chief Operating Officer of the agency, adopt rules of procedure governing the Office of Compliance, subject to approval by the Board of Directors of the Office of Compliance. The rules of procedure generally establish the process by which alleged violations of the laws made applicable to the Legislative Branch under the CAA will be considered and resolved. The rules include procedures for counseling, mediation, and election between filing an administrative complaint with the Office of Compliance or filing a civil action in U.S. District Court. The rules also include the procedures for processing Occupational Safety and Health investigations and enforcement, as well as the process for the conduct of administrative hearings held as the result of the filing of an administrative complaint under all of the statutes applied by the Act, and for appeals of a decision by a hearing officer to the Board of Directors of the Office of Compliance, and for the filing of an appeal of a decision by the Board of Directors to the United States Court of Appeals for the Federal Circuit. The rules also contain other matters of general applicability to the dispute resolution process and to the operation of the Office of Compliance.

These amendments to the Rules of Procedures are the result of the experience of the Office in processing disputes under the CAA during the period since the original adoption of these rules in 1995.

HOW TO READ THE AMENDMENTS

The text of the amendments shows changes to the preexisting text of the Procedural Rules as follows: *[deletions within italicized brackets], and added text in italicized bold.* Only subsections of the rules which include amendments are reproduced in this NOTICE. The insertion of a series of small dots (. . . . .) indicates additional, unamended text within a section has not been reproduced in this document. The insertion of a series of stars (* * * * *) indicates that the unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not amended, please access the Office of Compliance web site at www.compliance.gov

Included with these amendments are "Discussions" which are not part of the Procedural Rules, but which have been added to provide additional information regarding the adoption of these amendments to the Procedural Rules.

DISABILITY ACCESS

This Notice of Adoption of Amendments to the Procedural Rules is available on the Office of Compliance web site, www.compliance.gov, which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice is also available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540; 202–724–9225; TDD: 202–426–1912; FAX: 202–426–1913.

PART I—OFFICE OF COMPLIANCE RULES OF PROCEDURE

As Amended—February 12, 1998 (Subpart A, section 1.02, "Definitions"), and As Amended by the publication of this Notice of Adoption of Amendments to the Procedural Rules on June ___, 2004.

TABLE OF CONTENTS

Subpart A—General Provisions

§ 1.01 Scope and Policy
§ 1.02 Definitions
§ 1.03 Filing and Computation of Time
§ 1.04 Availability of Official Information
§ 1.05 Designation of Representative
§ 1.06 Maintenance of Confidentiality
§ 1.07 Breach of Confidentiality Provisions

Subpart B—Pre-Complaint Procedures Applicable to Consideration of Alleged Violations of Part A of Title II of the Congressional Accountability Act of 1995

§ 2.01 Matters Covered by Subpart B
§ 2.02 Requests for Advice and Information
§ 2.03 Counseling
§ 2.04 Mediation
§ 2.05 Election of Proceedings
§ 2.06 Filing of Civil Action

Subpart C—[Reserved (Section 210—ADA Public Services)]

Subpart D—Compliance, Investigation, Enforcement and Variance Procedures under Section 215 of the CAA (Occupational Safety and Health Act of 1970) Inspections, Citations, and Complaints

§ 4.01 Purpose and Scope
§ 4.02 Authority for Inspection
§ 4.03 Request for Inspections by Employees and Employing Offices
§ 4.04 Objection to Inspection
§ 4.05 Entry Not a Waiver
§ 4.06 Advance Notice of Inspection
§ 4.07 Conduct of Inspections
§ 4.08 Representatives of Employing Offices and Employees
§ 4.09 Consultation with Employees
§ 4.10 Inspection Not Warranted, Informal Review
§ 4.11 Citations
§ 4.12 Imminent Danger
§ 4.13 Posting of Citations
§ 4.14 Failure to Correct a Violation for Which a Citation Has Been Issued; Notice of Failure to Correct Violation; Complaint
§ 4.15 Informal Conferences

Rules of Practice for Variances, Limitations, Variations, Tolerances, and Exemptions

§ 4.20 Purpose and Scope
§ 4.21 Definitions
§ 4.22 Effect of Variances
§ 4.23 Public Notice of a Granted Variance, Limitation, Variation, Tolerance, or Exemption
§ 4.24 Form of Documents
§ 4.25 Applications for Temporary Variances and other Relief
§ 4.26 Applications for Permanent Variances and other Relief
§ 4.27 Modification or Revocation of Orders
§ 4.28 Action on Applications
§ 4.29 Consolidation of Proceedings
§ 4.30 Consent Findings and Rules or Orders
§ 4.31 Order of Proceedings and Burden of Proof

Subpart E—Complaints

§ 5.01 Complaints
§ 5.02 Appointment of the Hearing Officer
§ 5.03 Dismissal, Summary Judgment, and Withdrawal of Complaint
§ 5.04 Confidentiality

Subpart F—Discovery and Subpoenas

§ 6.01 Discovery
§ 6.02 Requests for Subpoenas
§ 6.03 Service
§ 6.04 Proof of Service
§ 6.05 Motion to Quash
§ 6.06 Enforcement

Subpart G—Hearings

§7.01 The Hearing Officer
§7.02 Sanctions
§7.03 Disqualification of the Hearing Officer §7.04 Motions and Prehearing Conference
§7.05 Scheduling the Hearing
§7.06 Consolidation and Joinder of Cases
§7.07 Conduct of Hearing, Disqualification of Representatives
§7.08 Transcript
§7.09 Admissibility of Evidence
§7.10 Stipulations
§7.11 Official Notice
§7.12 Confidentiality
§7.13 Immediate Board Review of a Ruling by a Hearing Officer
§7.14 Briefs
§7.15 Closing the record
§7.16 Hearing Officer Decisions, Entry in Records of the Office

Subpart H—Proceedings before the Board

§8.01 Appeal to the Board
§8.02 Reconsideration
§8.03 Compliance with Final Decisions, Requests for Enforcement
§8.04 Judicial Review

Subpart I—Other Matters of General Applicability

§9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents
§9.02 Signing of Pleadings, Motions and Other Filings; Violations of Rules; Sanctions
§9.03 Attorney's Fees and Costs
§9.04 Ex parte Communications
§9.05 Settlement Agreements
§9.06 Payments pursuant to Decisions or Awards under Section 415(a) of the Act.
§9.07 Revocation, Amendment or Waiver of Rules

* * * * *

§1.03 Filing and Computation of Time.

(a) *Method of Filing*. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. ***When specifically requested by the Executive Director, or by a Hearing Officer in the case of a matter pending before the Hearing Officer, or by the Board of Directors in the case of an appeal to the Board, any document may also be filed by electronic transmittal in a designated format, with receipt confirmed by electronic transmittal in the same format.*** Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission.....

Discussion: The Office is beginning the process or migrating to electronic filing of documents. Because of the limitations in current capabilities, this authorization is optional, and provides for a designation of the format to be utilized. The Rule does not contemplate that a party will be involuntarily required to file electronically. The authorization for such filing must be made by the official(s) before whom the filing is pending.

* * * * *

(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or fled by express mail or other forms of expedited delivery in which proof of date of receipt by the addressee is provided.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9–11, the Office has determined that additional flexibility in the use of comparable document delivery services is needed.

* * * * *

2.03 Counseling.

(a) *Initiating a Proceeding, Formal Request for Counseling*. In order to initiate a proceeding under these rules, an employee shall [formally] ***file a written*** request ***for*** counseling [from] ***with*** the Office regarding an alleged violation of the Act, as referred to in section 2.01(a) above. All [formal] requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.

Discussion: Requiring a written request for counseling provides the Office with documentation of the request. Such documents remain confidential, as required by section 416 of the Act, and by the Procedural Rules.

* * * * *

(c) *When, How, and Where to Request Counseling*. A [formal] request for counseling ***must be in writing, and***[: (1)] shall be [made] ***filed*** **pursuant to the requirements of section 2.03(a) of these Rules** ***with the Office of Compliance at Room LA–200, 110 Second Street, S.E., Washington, D. C. 20540–1999, [telephone 202–724–9250;] FAX 202–426–1913; TDD 202426–1912***, not later than 180 days after the alleged violation bf the Act.[;] [(2) may be made to the Office in person, by telephone, or by written request; (3) shall be directed to: Office of Compliance, Adams Building, Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone 202–724–9250; FAX 202–426–1913; TDD 202–4261912.]

Discussion: This amendment conforms to the amendment at section 2.03(a).

* * * * *

(1) *Conclusion of the Counseling Period and Notice*. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested, ***or by personal delivery evidenced by a written receipt.*** The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9–11, the Office has determined that additional flexibility of personal delivery is needed, as long as that delivery can be verified.

(m) *Employees of the Office of the Architect of the Capitol and the Capitol Police*.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term 'grievance procedures' refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

. . . . .

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect of the Capitol or of the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules:

(A) within [10] ***60*** days after the expiration of the period recommended by the Executive Director, if the matter has not [been resolved] ***resulted in a final decision***; or

(B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect of the Capitol or the Capitol Police Board.

(iii) The period during which the matter is pending in the internal grievance procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, ***the employee shall so notify the Office within 20 days after the employee has received service of the final decision resulting from the grievance procedure.*** [or i] ***I***f no request to return to the procedures under these rules is received within [the applicable time period] ***60 days after the expiration of the period recommended by the Executive Director,*** the Office will [consider the case to be closed in its official files] ***issue a Notice of End of Counseling, as specified in section 2.04(i) of these Rules.***

Discussion: Section 401 of the Act authorizes the Executive Director, "after receiving a request for counseling . . . [to] recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time, which shall not count against the time available for counseling or mediation." The extension of the grace period in the case of a matter which has not been concluded in 60 days provides the parties additional time to complete the grievance process. The issuance of a Notice of End of Counseling rather than the administrative closure of a matter ensures that no employee inadvertently loses the opportunity to continue to pursue a matter, which has not been successfully concluded through the agency grievance procedure. If an employee notifies the Office of a desire to return to the Office dispute resolution procedure pursuant to subsection (ii) above, the time remaining in counseling shall not include any time between the filing of the request for counseling, and the date of issuance by the Executive Director of a recommended referral. Thus, for instance, if the Executive Director recommends referral 5 days after the filing of a Request for Counseling, the time remaining in counseling as of the date the Office receives a notification of return would be 25 days.

2.04 Mediation.

. . . . .

(e) *Duration and Extension*.

(1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint ***written*** request of the parties ***or of the appointed mediator on behalf of the parties to the attention of the Executive Director.*** The request ***[***may be oral or***] shall be*** written and ***[***shall be noted and***]*** filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Request for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

Discussion: This amendment authorizes a mediator or both parties to submit a request for extension. The Office will accept joint requests by the parties in which the signature of a party has been authorized to be executed by the other party, as long as that authorization is stated in the submission.

* * * * *

(i) *Conclusion of the Mediation Period and Notice*. If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested, ***or will be ([hand]] personally delivered, evidenced by a written receipt,*** and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with section 405 of the Act and section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section 2.06 of these rules.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9–11, the Office has determined that additional flexibility of personal delivery is needed, as long as that delivery can be verified.

* * * * *

2.06 Filing of Civil Action.

. . . . .

(c) Communication Regarding Civil Actions Filed with District Court. The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act shall provide a written notice to the Office that the party has filed a civil action, specifying the district court in which the civil action was filed and the case number.

Discussion: The Office of Compliance is required by the Act to educate Members of Congress, employing offices, and employees regarding their rights and responsibilities under the Act (section 301(h)); to ensure that an employee has not filed both a District Court and an administrative complaint in violation of section 404; and to monitor any judicial interpretation of the Act or review of Office regulations pursuant to sections 408 and 409. Requiring such notice by a party to a matter which has been processed through counseling and mediation before this agency pursuant to a duly promulgated rule of this agency does not violate any applicable attorney rule of professional conduct.

* * * * *

§ 5.03 Dismissal, *Summary Judgment,* and Withdrawal of Complaints.

. . . . .

(d) Summary Judgment. A Hearing Officer may, after notice and an opportunity for the parties to address the question of summary judgment, issue summary judgment on some or all of the complaint.

Discussion: This amendment clarifies the existing authority of Hearing Officers to issue summary judgment or partial summary judgment.

(***[***d***]e***) *Appeal*. A ***[***dismissal***] final decision*** by the Hearing Officer made under section 5.03(a)-***[***(c)***] (d)*** or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01. ***A final decision under section 5.03(a)-(d) which does not resolve all of the claims or issues in the case(s) before the Hearing Officer may not be appealed to the Board in advance of a final decision entered under section 7.16 of these rules, except as authorized pursuant to section 7.13 of these rules.***

Discussion: This amendment clarifies that any final decision which does not completely dispose of a matter will be treated as an interlocutory appeal.

(***[***e***]f***) . . . . .

(***[***f***]g***) . . . . .

* * * * *

§ 7.02 Sanctions.

(a) The Hearing Officer may impose sanctions on a party's representative necessary to regulate the course of the hearing.

Discussion: This rule is procedural. The Office of Compliance is required by section 405(d)(3) of the Act to conduct its hearings "to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of [the Administrative Procedure Act found at] title 5, United States Code." The phrase "necessary to regulate the course of the hearing" is derived from section 556(c)(5) of the Administrative Procedure Act, 5 U.S.C. 556(c)(5). Agency tribunals operated under the Administrative Procedure Act possess broad authority to regulate the practice and conduct of attorneys and other representatives appearing on behalf of parties to proceedings before them.

(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

(***[***a***]1***) *Failure to Comply with an Order*. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

(***[***1***]a***) . . . . .

(***[***2***]b***) . . . . .

(***[***3***]c***) . . . . .

(***[***4***]d***) . . . . .

(***[***5***]e***) . . . . .

(***[***6***]f***) . . . . .

(***[***7***]g***) . . . . .

(***[***b***]2***) . . . . .

(***[***c***]3***) . . . . .

* * * * *

§ 8.01 Appeal to the Board.

. . . . .

(b)(1) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with section 9.01 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

(2) Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a responsive brief. Unless otherwise ordered by the Board, within 10 days following the service of the appellee's responsive brief, the appellant may file and serve a reply brief.

(3) Upon written delegation by the Board, the Executive Director is authorized to determine any request for extensions of time to file any post petition for review document or-submission with the Board in any case in which the Executive Director has not rendered a determination on the merits. Such delegation shall continue until revoked by the Board.

Discussion: This ministerial delegation is not a "substantive" rule. The extension of filing deadlines is limited to the parameters of a written authorization from the Board, and cannot affect the requirement of section 406(a) that a party must "file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office."

* * * * *

§ 9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.

(a) *Filing with the Office; Number*. One original and three copies of all motions, briefs, responses, and other documents must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer ***or a party to any other matter or determination reviewable by the Board*** files an appeal ***or other submission*** with the Board, one original and seven copies of ***[***both***] any [***appeal brief***] submission*** and any responses must be filed with the Office. ***The Office[r], Hearing Officer, or Board may also request a party to submit an electronic version of any submission ffon a disk]] in a designated format, with receipt confirmed by electronic transmittal in the same format.***

Discussion: The addition of the phrase "or other matter or determination reviewable by the Board" references those controversies over which the Board has jurisdiction, but which are not initially determined before a Hearing Officer. These other matters or determinations include collective bargaining representation and negotiability determinations made by the Board pursuant to Part 2422 of the Office of Compliance Rules, review by the Board of arbitration decisions pursuant to Part 2425 of the Rules, determination of bargaining consultation rights under Part 2426 of the Rules, requests for statements of policy or guidance by the Board under Part 2427 of the Rules, enforcement of standards of conduct decisions and orders by the Assistant Secretary of Labor of Labor Management Relations pursuant to Part 2428 of the Rules, and determinations regarding collective bargaining impasses pursuant to Part 2470 of the Rules. Some of these matters are addressed to the Board in the first instance. Submission by electronic version is an option in addition to the existing methods for filing documents. See also amended rule 1.03(a), supra. This addition reflects the decision of this agency to begin migrating toward electronic filing of submissions. Because of the limitations in current capabilities, this authorization is optional, and provides for a designation of the format to be utilized. The Rule does not contemplate that a party will be involuntarily required to file electronically. The authorization for such filing must be made by the official(s) before whom the filing is pending.

* * * * *

§ 9.03 Attorney's fees and costs.

(a) *Request*. No later than 20 days after the entry of a Hearing Officer's decision under section 7.16 or after service of a Board decision by the Office, the complainant, if he or

she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. ***All motions for attorney's fees and costs shall be submitted to the Hearing Officer. T***he Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion. ***Decisions regarding attorney's fees and costs are collateral and do not affect the finality or appealability of a final decision issued by the Hearing Officer. A ruling on a motion for attorney's fees and costs may be appealed together with the final decision of the Hearing Officer. If the motion for attorney's fees is ruled on after the final decision has been issued by the Hearing Officer, the ruling may be appealed in the same manner as a final decision, pursuant to section 8.01 of these Rules.***

Discussion: This amendment clarifies the rules to exclude the filing of motions for attorney's fees with the Board of Directors.

* * * * *

§ 9.05 Informal Resolutions and Settlement Agreements

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(b) *Formal Settlement Agreement*. The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. ***If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.***

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties or their designated representatives on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise permitted by law.

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be apart of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act. Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

Discussion: The Act empowers the Executive Director to exercise final approval over any settlement agreement. Otherwise, no settlement agreement shall "become effective." See 2 U.S.C. 1414. This procedural rule provides a dispute resolution procedure which is designed to preserve the confidentiality of any settlement agreement to the maximum extent possible, should the parties not include another dispute resolution mechanism in the settlement agreement which is approved by the Executive Director.

§ 9.06 Payments required pursuant to Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 4050, 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.

Discussion: This rule memorializes existing practices authorized under section 415(a) of the Act.

§ 9.07 Revocation, Amendment or Waiver of Rules.

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EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8521. A letter from the Regulations Coordinator, FDA, Department of Health and Human Services, transmitting the Department's final rule — Eligibility Determination for Donors of Human Cells, Tissues, and Cellular and Tissue-Based Products [Docket No. 1997N-0484S] (RIN: 0910-AB27) received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8522. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption; Olestra [Docket No. 1999F-0719] received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8523. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Extension of Comment Period [Docket No. 2002N-0278] received June 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8524. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Dental Devices; Reclassification of Root-Form Endosseous Dental Implants and Endosseous Dental Implant Abutments [Docket No. 2002N-0114] received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8525. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Immunology and Microbiology Devices; Classification of the Immunomagnetic Circulating Cancer Cell Selection and Enumeration System [Docket No. 2004P-0126] received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8526. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Registration of Food Facilities Under the Public Health Security and Bioterrorism Predparedness and Response Act of 2002; Technical Amendment [Docket No. 2002N-0276] (RIN: 0910-AC40) received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8527. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Revision of the Requirements for Spore-Forming Microorganisms; Confirmation of Effective Date [Docket No. 2003N-0528] received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8528. A letter from the Regulations Coordinator, FDA, Department of Health and Human Services, transmitting the Department's final rule — Administrative Detention of Food for Human or Animal Consumption Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 [Docket No. 2002N-0275] (RIN: 0910-AC38) received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8529. A letter from the Trial Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's final rule — Confidential Business Information [Docket No. NHTSA-02-12150; Notice 3] (RIN: 2127-AJ24) received April 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8530. A letter from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's final rule — Tire Safety Information [Docket No. NHTSA-04-17917] (RIN: 2127-AJ36) received June 3, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8531. A letter from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Theft Prevention Standard [Docket No. NHTSA-2002-12231] (RIN: 2127-A146) received June 3, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8532. A letter from the Federal Register Liaison Officer, TTB, Department of the Treasury, transmitting the Department's final rule — Columbia Gorge Viticultural Area (2002R-03P) [T.D. TTB-11; Re: Notice No. 11] (RIN: 1513-AC81) received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8533. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2004-36) received June 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8534. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Losses. (Rev. Rul. 2004-58) received June 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8535. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Business expenses. (Rev. Rul. 2004-62) received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8536. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Wages (Rev. Rul. 2004-60) received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8537. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, first-out inventories. (Rev. Rul. 2004-61) received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8538. A letter from the Acting Chief, Publications and Regulations, Internal Revenue

Service, transmitting the Service's final rule — Statements to recipients of royalties. (Rev. Rul. 2004-46) received May 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8539. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2004-54) received May 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8540. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Coordinated Issue All Industries Foreign Sales Corporations: Advance Payment Transactions — received May 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8541. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Uniform Capitalization of Interest Expense in Safe Harbor Sale and Leaseback Transactions [REG-148399-02] (RIN: 1545-BB62) received May 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8542. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Medicare and State Health Care Programs; Fraud and Abuse: OIG Civil Money Penalties Under the Medicare Prescription Drug Discount Card Program (RIN: 0991-AB30) received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

8543. A letter from the Executive Director, Office of Compliance, transmitting notice of adoption of amendments to the Procedural Rules of the Office of Compliance for printing in the Congressional Record, pursuant to Public Law 104—1, section 303(a) (109 Stat. 28); jointly to the Committees on House Administration and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROGERS of Kentucky: Committee on Appropriations. H.R. 4567. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–541). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR of North Carolina: Committee on Appropriations. H.R. 4568. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–542). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Suballocation on the Budget Allocations for Fiscal Year 2005 (Rept. 108–543). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 674. Resolution Providing for consideration of the bill (H.R. 4568) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, and for other purposes. (Rept. 108–544). Referred to the House Calendar.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 675. Resolution providing for consideration of the bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes. (Rept. 108–545). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BURNS (for himself, Mr. SCOTT of Georgia, Mr. THOMAS, Mr. KINGSTON, Mr. BISHOP of Georgia, Mr. NORWOOD, Mr. LEWIS of Georgia, Ms. MAJETTE, Mr. ISAKSON, Mr. MARSHALL, Mr. DOOLITTLE, Mr. ISSA, Mr. NUNES, Mr. GALLEGLY, Mr. FARR, Ms. WOOLSEY, Mr. GARY G. MILLER of California, Mr. OSE, Mr. THOMPSON of California, and Mrs. CAPPS):

H.R. 4569. A bill to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum, and for other purposes; to the Committee on Agriculture.

By Mr. PUTNAM (for himself and Mr. TOM DAVIS of Virginia):

H.R. 4570. A bill to amend provisions of law originally enacted in the Clinger-Cohen Act to enhance agency planning for information security needs; to the Committee on Government Reform.

By Mr. SMITH of Texas (for himself, Mr. SENSENBRENNER, Mr. FORBES, Mr. GREEN of Wisconsin, Mr. GALLEGLY, Mr. CHABOT, Mr. GARRETT of New Jersey, Mr. KING of Iowa, Mr. DELAY, Mr. FRANKS of Arizona, Mr. CULBERSON, Mr. KELLER, Mr. CARTER, Mr. PEARCE, Mr. CALVERT, and Mr. GOODLATTE):

H.R. 4571. A bill to amend Rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, and for other purposes; to the Committee on the Judiciary.

By Mr. TAYLOR of Mississippi:

H.R. 4572. A bill to condition United States military cooperation with the government of Bulgaria within the territory of Bulgaria on the certification by the Secretary of Defense that United States citizens and corporations are afforded full due process of law in Bulgaria and that certain United States legal decisions against Bulgarian nationals have been satisfied; to the Committee on Armed Services.

By Mr. BEREUTER (for himself, Mr. BOEHLERT, Mr. LAHOOD, Ms. ESHOO, and Mr. HOLT):

H.R. 4573. A bill to amend the National Security Act of 1947 to provide for enhanced language education and training for members of the intelligence community, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. BEREUTER (for himself, Mr. BOEHLERT, Mr. LAHOOD, Ms. ESHOO, and Mr. HOLT):

H.R. 4574. A bill to amend title VIII of the Intelligence Authorization Act for Fiscal Year 1992, as amended, to revise the funding mechanism for scholarships, fellowships, and grants to institutions under the National Security Education Program, and for other purposes; to the Committee on Intelligence (Permanent Select), and in addition to the Committees on Armed Services, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO (for herself, Ms. BALDWIN, Mrs. CHRISTENSEN, Mr. MCNULTY, Mr. WAXMAN, Ms. SOLIS, Mr. MCDERMOTT, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. ENGEL, Mr. OWENS, Ms. NORTON, Mr. TOWNS, Mr. RANGEL, Ms. CORRINE BROWN of Florida, Mr. KUCINICH, Mr. GRIJALVA, Mr. DELAHUNT, Mr. SERRANO, Mr. LANTOS, Mr. WYNN, Mr. OBERSTAR, Mr. GUTIERREZ, Mr. BACA, Mr. HASTINGS of Florida, Ms. KILPATRICK, Mr. DAVIS of Illinois, Mr. JACKSON of Illinois, Mr. MCGOVERN, Mr. MEEKS of New York, Ms. WATERS, Mr. BRADY of Pennsylvania, Ms. LEE, Mr. EVANS, Mr. GEORGE MILLER of California, Ms. MCCOLLUM, Mrs. MCCARTHY of New York, Ms. MILLENDER-MCDONALD, Mrs. MALONEY, Mr. HINCHEY, Ms. JACKSON-LEE of Texas, Mr. KILDEE, Mr. EMANUEL, Mr. SANDLIN, Ms. MCCARTHY of Missouri, Mr. BROWN of Ohio, Mr. STARK, Ms. WOOLSEY, and Mr. LARSON of Connecticut):

H.R. 4575. A bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLATTE (for himself, Mr. STENHOLM, Mr. NEUGEBAUER, Mr. BONILLA, Mr. BOEHNER, Mr. SMITH of Michigan, Mrs. MUSGRAVE, Mr. HAYES, Mr. DOOLEY of California, Mr. ORTIZ, Mr. KENNEDY of Minnesota, Mr. PETERSON of Pennsylvania, Mr. FARR, Mr. CHOCOLA, Mr. BERRY, and Mr. ACEVEDO-VILA):

H.R. 4576. A bill to amend the Agricultural Marketing Act of 1946 to establish a voluntary program for the provision of country of origin information with respect to certain agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. GRIJALVA:

H.R. 4577. A bill to allow binding arbitration clauses to be included in all contracts affecting the land within the Gila River Indian Community Reservation; to the Committee on Resources.

By Mrs. JOHNSON of Connecticut (for herself, Ms. PRYCE of Ohio, Mr. BROWN of Ohio, Mr. GREENWOOD, Mr. RAMSTAD, Mr. BURR, Ms. ESHOO, Mrs. BONO, Mr. MCINNIS, Mr. SHAYS, Mr. NORWOOD, Mr. CAMP, Ms. DUNN, and Mr. WAXMAN):

H.R. 4578. A bill to reauthorize the Children's Hospitals Graduate Medical Education Program; to the Committee on Energy and Commerce.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. BLUNT):

H.R. 4579. A bill to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes; to the Committee on Resources.

By Mr. MCKEON:

H.R. 4580. A bill to remove certain restrictions on the Mammoth Community Water District's ability to use certain property acquired by that District from the United States; to the Committee on Resources.

By Mr. NUNES (for himself, Mr. RADANOVICH, and Mr. DOOLEY of California):

H.R. 4581. A bill to provide for the conveyance of the former Department of Agriculture Agricultural Research Service laboratory in Fresno, California, to the City of Fresno; to the Committee on Government Reform.

By Mr. PLATTS:

H.R. 4582. A bill to amend the Internal Revenue Code of 1986 to suspend the running of periods of limitation for credit or refund of overpayment of Federal income tax by veterans while their service-connected compensation determinations are pending with the Secretary of Veterans Affairs; to the Committee on Ways and Means.

By Mr. REHBERG (for himself and Mr. PETERSON of Minnesota):

H.R. 4583. A bill to amend the Farm Security and Rural Investment Act of 2002 to base the counter-cyclical payment rate for the 2003 crop year for producers whose farming operations are located in certain declared disaster areas on the total of the partial payments for that crop year; to the Committee on Agriculture.

By Mr. BURNS (for himself and Mr. SCOTT of Georgia):

H. Con. Res. 449. Concurrent resolution honoring the life and accomplishments of Ray Charles, recognizing his contributions to the Nation, and extending condolences to his family on his death; to the Committee on Education and the Workforce.

By Mr. OWENS (for himself, Mr. ACEVEDO-VILA, Mr. ACKERMAN, Ms. BALDWIN, Ms. BERKLEY, Mr. BERMAN, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Ms. CORRINE BROWN of Florida, Mr. CARDOZA, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CAPUANO, Mr. CONYERS, Mr. CUMMINGS, Mr. COOPER, Mr. CROWLEY, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DEUTSCH, Mr. ENGEL, Mr. EVERETT, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. GORDON, Mr. FORD, Mr. HASTINGS of Florida, Mr. HOYER, Ms. JACKSON-LEE of Texas, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KUCINICH, Mr. LANTOS, Mrs. JONES of Ohio, Ms. KILPATRICK, Ms. LEE, Mr. LEWIS of Georgia, Ms. MAJETTE, Mrs. MALONEY, Mr. MCDERMOTT, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. MORAN of Virginia, Mr. NADLER, Ms. NORTON, Mr. PAYNE, Ms. PELOSI, Mr. PICKERING, Mr. RANGEL, Mr. ROTHMAN, Mr. RUSH, Mr. SANDERS, Mr. SANDLIN, Mr. SCOTT of Virginia, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. SMITH of Washington, Mr. SPRATT, Mr. TAYLOR of Mississippi, Mr. THOMPSON of Mississippi, Mr. TOWNS, Mr. UDALL of Colorado, Ms. WATERS, Ms. WATSON, Mr. WATT, Mr. WAXMAN, Mr. WEINER, Mr. WEXLER, and Mr. WYNN):

H. Con. Res. 450. Concurrent resolution recognizing the 40th anniversary of the day civil rights organizers Andrew Goodman, James Chaney, and Michael Schwerner gave their lives in the struggle to guarantee the right to vote for every citizen of the United States and encouraging all Americans to observe the anniversary of the deaths of the 3 men by committing themselves to ensuring equal rights, equal opportunities, and equal justice for all people; to the Committee on Government Reform.

By Ms. NORTON (for herself, Mr. SENSENBRENNER, Mr. CONYERS, Mr. CUMMINGS, Mr. LEWIS of Georgia, Ms. MAJETTE, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. OWENS, Mr. PAYNE, Mr. RANGEL, Mr. RUSH, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATERS, Ms. WATSON, Mr. WATT, Mr. WYNN, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. FORD, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Ms. KILPATRICK, and Ms. LEE):

H. Res. 676. A resolution recognizing and honoring the 40th anniversary of congressional passage of the Civil Rights Act of 1964; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 445: Mr. SERRANO.
H.R. 742: Ms. BERKLEY.
H.R. 756: Mr. FOSSELLA.
H.R. 786: Mr. HENSARLING.
H.R. 832: Mr. MENENDEZ.
H.R. 962: Mr. GONZALEZ.
H.R. 1214: Mr. EVANS.
H.R. 1310: Mr. PETRI.
H.R. 1345: Mr. HALL.
H.R. 1348: Mr. MORAN of Virginia.
H.R. 1639: Mr. FROST.
H.R. 1660: Mr. HOSTETTLER.
H.R. 1716: Mr. RODRIGUEZ, Ms. HOOLEY of Oregon, Ms. HERSETH, and Mr. BAKER.
H.R. 2071: Mr. BASS and Mr. CONYERS.
H.R. 2085: Mrs. CHRISTENSEN.
H.R. 2198: Mr. ANDREWS.
H.R. 2213: Mr. MCGOVERN.
H.R. 2260: Mr. ROGERS of Kentucky, Mr. BERMAN, Ms. LINDA T. SANCHEZ of California, Mr. KILDEE, and Ms. BALDWIN.
H.R. 2387: Mr. WAXMAN.
H.R. 2490: Mr. BOEHLERT.
H.R. 2536: Mr. DELAHUNT and Mr. PASTOR.
H.R. 2681: Mr. HOLT and Mr. FILNER.
H.R. 2699: Mr. PRYCE of Ohio, Mr. SULLIVAN, Mr. BASS, Mrs. WILSON of New Mexico, Mr. LAMPSON, Mr. LEACH, Mr. MILLER of Florida, and Mr. STEARNS.
H.R. 2735: Mr. WICKER, Mr. MILLER of North Carolina, Mr. SANDLIN, Mr. GILLMOR, Ms. SLAUGHTER, Mr. HOLT, and Mr. MARKEY.
H.R. 2821: Mr. PITTS and Mr. BACHUS.
H.R. 2950: Mr. LARSON of Connecticut, Mr. SANDLIN, and Mr. PETRI.
H.R. 2986: Mr. LAMPSON.
H.R. 3090: Mr. FILNER.
H.R. 3103: Mr. DELAHUNT and Mr. BACHUS.
H.R. 3281: Mr. MOORE, Mr. MCNULTY, Mr. MARKEY, Mr. CUMMINGS, and Mr. GEORGE MILLER of California.
H.R. 3313: Mr. PETRI and Mr. RAHALL.
H.R. 3460: Mr. CROWLEY.
H.R. 3482: Mr. MOORE AND MR. BOEHLERT.
H.R. 3513: Mr. KENNEDY of Rhode Island.
H.R. 3527: Mr. TURNER of Ohio.
H.R. 3574: Mr. CRAMER, Mr. FOLEY, Mr. BILIRAKIS, and Mr. WILSON of South Carolina.
H.R. 3619: Mr. SKELTON.
H.R. 3673: Mr. VAN HOLLEN.
H.R. 3692: Mr. NADLER, Mr. PAYNE, Mr. CUMMINGS, Mr. ETHERIDGE, Mr. GRIJALVA, Mr. GEORGE MILLER of California, and Ms. WATSON.
H.R. 3719: Mr. ANDREWS, Mr. LANTOS, Mr. PALLONE, and Mr. SANDERS.
H.R. 3777: Mr. MILLER of Florida.
H.R. 3780: Ms. MCCARTHY of Missouri and Mr. HINCHEY.
H.R. 3799: Mr. VITTER and Mr. SULLIVAN.
H.R. 3816: Mr. GUTIERREZ and Mr. RYAN of Ohio.
H.R. 3965: Mr. KENNEDY of Minnesota, Mr. CHANDLER, Mr. HOLT, Mr. KILDEE, Mr. WEINER, Mr. WEXLER, and Mr. CASE.
H.R. 3988: Mr. CASE.
H.R. 4032: Mr. UDALL of New Mexico and Mr. GUTIERREZ.
H.R. 4035: Mr. MCDERMOTT and Mr. HASTINGS of Florida.
H.R. 4110: Ms. WATERS and Mr. CALVERT.
H.R. 4169: Mr. PAYNE and Mr. KLINE.
H.R. 4187: Mr. ENGLISH and Mr. ISSA.
H.R. 4218: Mr. EHLERS and Ms. WOOLSEY.
H.R. 4225: Mr. KENNEDY of Rhode Island.
H.R. 4256: Ms. ESHOO.
H.R. 4263: Mr. KUCINICH, Ms. SCHAKOWSKY, Mr. PAYNE, Mr. STRICKLAND, Mr. MATSUI, Mr. LANTOS, Mr. CUMMINGS, Mr. KENNEDY of Rhode Island, and Ms. JACKSON-LEE of Texas.
H.R. 4282: Mr. GRIJALVA and Mr. MORAN of Virginia.
H.R. 4284: Mr. WILSON of South Carolina, Mr. MILLER of Florida, Mr. RYUN of Kansas, and Mr. ENGLISH.
H.R. 4335: Mr. RANGEL.
H.R. 4341: Mr. DAVIS of Tennessee and Mr. BRADLEY of New Hampshire.
H.R. 4343: Mrs. MYRICK and Mr. KOLBE.
H.R. 4345: Ms. HARRIS and Mr. BACHUS.
H.R. 4346: Mr. ANDREWS, Ms. SCHAKOWSKY, Ms. MAJETTE, Mr. STUPAK, Mr. OBERSTAR, Ms. WOOLSEY, Mr. WEINER, Mr. JEFFERSON, Mrs. LOWEY, Mr. BAIRD, and Ms. MCCOLLUM.
H.R. 4355: Mr. GONZALEZ, Mr. HOEFFEL, Mr. MCINTYRE, Mr. SANDLIN, Mr. FRANK of Massachusetts, Mr. FROST, Mr. MOORE, Ms. LEE, Mr. WYNN, Mr. CASE, Mr. GEORGE MILLER of California, Ms. KILPATRICK, Mr. OWENS, Mrs. CAPPS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CARDIN, Mrs. MALONEY, Mr. MATSUI, Mr. SKELTON, Mr. HASTINGS of Florida, Mr. GREEN of Texas, Mr. NADLER, and Ms. ROYBAL-ALLARD.
H.R. 4363: Mr. WALSH and Mr. DOYLE.
H.R. 4380: Mr. BOYD, Mr. MARIO DIAZ-BALART of Florida, Mr. GOSS, Mr. HASTINGS of Florida, and Mr. STEARNS.
H.R. 4414: Mr. EMANUEL, Mr. OWENS, and Mr. CARDOZA.
H.R. 4458: Mr. DEUTSCH and Mr. TOWNS.
H.R. 4463: Mr. OWENS, Mr. FILNER, and Mr. RANGEL.
H.R. 4469: Ms. SOLIS, Mr. SMITH of Washington, and Mr. STARK.
H.R. 4499: Mr. HERGER, Mr. PENCE, and Mr. MCINNIS.
H.R. 4520: Mr. NETHERCUTT and Mr. CARTER.
H.R. 4523: Mr. WELDON of Pennsylvania.
H. Con. Res. 47: Mr. CAPUANO.
H. Con. Res. 111: Mr. RUSH.
H. Con. Res. 323: Ms. VELÁZQUEZ.
H. Con. Res. 366: Mr. DAVIS of Florida and Ms. ESHOO.
H. Con. Res. 392: Ms. SCHAKOWSKY and Mr. HASTINGS of Florida.
H. Con. Res. 410: Mr. SMITH of New Jersey, Mr. CHABOT, and Mr. PENCE.
H. Res. 38: Ms. SLAUGHTER.
H. Res. 60: Mr. EMANUEL.
H. Res. 129: Mr. ROTHMAN.
H. Res. 528: Mr. WILSON of South Carolina and Mr. GREENWOOD.
H. Res. 596: Mr. PENCE.
H. Res. 632: Mr. GILLMOR.
H. Res. 652: Mr. LANTOS, Mr. MCCOTTER, and Mr. GALLEGLY.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4567

OFFERED BY: MS. ROYBAL-ALLARD

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following new section:

SEC. ____. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

H.R. 4567

OFFERED BY: MS. ROYBAL-ALLARD

AMENDMENT NO. 2: At the end of the bill (before the short title), insert the following new section:

SEC. ____. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security who are Immigration Information Officers, Contact Representatives, or Investigative Assistants.

H.R. 4567

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 3: In title III, under the heading ''Office for State and Local Government Coordination and Preparedness__State and local programs'', after the second dollar amount insert ''(reduced by $450,000,000)''

In title III, under the heading ''Office for State and Local Government Coordination and Preparedness__State and local programs'', after the fourth dollar amount insert ''(increased by $450,000,000)''.

H.R. 4567

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 4: In title III, under the heading ''Office for State and Local Government Coordination and Preparedness__State and local programs'', before the semicolon at the end of paragraph (1) insert '': *Provided further,* That the amount of any grant to a State shall be made on the basis of an assessment of the risk of terrorism with respect to threat, vulnerability, and consequences''.

H.R. 4567

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 5: In title III, under the heading ''Office for State and Local Government Coordination and Preparedness__State and local programs'', after the second dollar amount insert ''(reduced by $450,000,000)''.

In title III, under the heading ''Office for State and Local Government Coordination and Preparedness__State and local programs'', before the semicolon at the end of paragraph (1) insert '': *Provided further,* That the amount of any grant to a State in excess of the minimum amount under section 1014(c)(3) of such Act shall be made on the basis of an assessment of the risk of terrorism with respect to threat, vulnerability, and consequences''.

In title III, under the heading ''Office for State and Local Government Coordination and Preparedness__State and local programs'', after the fourth dollar amount insert ''(increased by $450,000,000)''.

H.R. 4567

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 6: At the end of the bill (before the short title), insert the following new section:

SEC. 5____. REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES; EXCEPTIONS.

(a) REQUIREMENT.—Except as provided in subsections (c) through (h), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations or procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) in support of contingency operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(4) Procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) for which the use of procedures other than competitive procedures has been approved on the basis of section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)), relating to unusual and compelling urgency of need.

(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of this title.

(f) EXCEPTIONS FOR CERTAIN OTHER COMMODITIES AND ITEMS.—Subsection (a) does not preclude the procurement of the following:

(1) Foods manufactured or processed in the United States.

(2) Waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.

(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) GEOGRAPHIC COVERAGE.—In this section, the term ''United States'' includes the possessions of the United States.

H.R. 4567

OFFERED BY: MR. DEFAZIO

AMENDMENT NO. 7: In title II of the bill, under the heading ''TRANSPORTATION SECURITY ADMINISTRATION—AVIATION SECURITY'', strike the fifth proviso, relating to the maximum staffing level for full-time equivalent screeners.

H.R. 4567

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 8: In title III, under ''OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS—STATE AND LOCAL PROGRAMS'', after the second dollar amount insert ''(reduced by $446,000,000)''.

In title III, under ''OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS—STATE AND LOCAL PROGRAMS'', after the fourth dollar amount insert ''(increased by $446,000,000)''.

H.R. 4567

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 9: At the end of the bill (before the short title) add the following:

SEC. ____. None of the funds made available in title III for discretionary grants for use in high-threat, high density urban areas and for rail and transit security, under the heading ''OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS—STATE AND LOCAL PROGRAMS'', may be used for more than 80 grants.

H.R. 4567

OFFERED BY: MR. MARKEY

AMENDMENT NO. 10: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used to approve, renew, or implement any aviation cargo security plan that permits the transporting of unscreened or uninspected cargo on passenger planes.

H.R. 4567

OFFERED BY: MR. SIMMONS

AMENDMENT NO. 11: In title II, under the heading ''UNITED STATES COAST GUARD—ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS'', after the first dollar amount insert ''(increased by $18,500,000)''.

In title IV, under the heading ''SCIENCE AND TECHNOLOGY—RESEARCH, DEVELOPMENT, ACQUISITION AND OPERATIONS'', after the dollar amount insert ''(reduced by $18,500,000)''.

H.R. 4568

OFFERED BY: MR. RAHALL

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following new title:

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available by this Act may be used to adversely affect

the physical integrity of Indian Sacred Sites on Federal lands (as such terms are defined in Executive Order 13007, dated May 24, 1996).

H.R. 4568

OFFERED BY: MR. CHABOT

AMENDMENT NO. 2: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used for the planning, designing, studying, or construction of forest development roads in the Tongass National Forest for the purpose of harvesting timber by private entities or individuals.

H.R. 4568

OFFERED BY: MR. UDALL OF NEW MEXICO

AMENDMENT NO. 3: Add at the end (before the short title) the following new title:

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds appropriated or made available by this Act may be used to finalize or implement the proposed revisions to subpart A of part 219 of title 36, Code of Federal Regulations, relating to National Forest System Planning for Land and Resource Management Plans, as described in the proposed rule published in the Federal Register on December 6, 2002 (67 Fed. Reg. 72770).

H.R. 4568

OFFERED BY: MR. HOLT

AMENDMENT NO. 4: At the end of the bill (before the short title), insert the following new section:

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available in this Act may be used to permit recreational snowmobile use in Yellowstone National Park, the John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park.

H.R. 4568

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 5: In title II, in the item relating to ''NATIONAL FOREST SYSTEM'', insert after the first dollar amount the following ''(increased by $23,000,000)''.

In title II, in the item relating to ''NATIONAL ENDOWMENT FOR THE ARTS—GRANTS AND ADMINISTRATION'', insert after the first dollar amount the following: ''(reduced by $60,000,000)''.

H.R. 4568

OFFERED BY: MR. UDALL OF COLORADO

AMENDMENT NO. 6: At the end of the bill, before the short title, insert the following new title:

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available by this Act shall be used to issue any document of disclaimer of interest in land pursuant to section 315 of the Federal Land Policy and Management Act of 1976 with respect to any claim or assertion based on section 2477 of the revised Statutes (R.S. 2477).

H.R. 4568

OFFERED BY: MR. SOUDER

AMENDMENT NO. 7: Under the item relating to ''NATIONAL PARK SERVICE—OPERATION OF THE NATIONAL PARK SYSTEM'' after ''$1,686,067,000'', insert the following: '', of which $1,070,984,000 shall be for base operating costs as defined on pages ONPS–151 to ONPS–159 of the budget justifications transmitted to the Committee on Appropriations for fiscal year 2005 which shall be allocated so that each unit of the National Park System receives an increase of not less than 8 percent over its fiscal year 2004 estimate; and''.

H.R. 4568

OFFERED BY: MR. FLAKE

AMENDMENT NO. 8: In title I, under the heading ''DEPARTMENTAL MANAGEMENT—PAYMENTS IN LIEU OF TAXES'', after the first dollar amount insert ''(increased by $20,000,000)''.

In title II, under the heading ''SMITHSONIAN INSTITUTION—SALARIES AND EXPENSES'', after the second dollar amount insert ''(reduced by $22,000,000)''.

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, TUESDAY, JUNE 15, 2004 No. 82

Senate

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. John David Kistler, of Hickory, NC.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Lord, Your holy word says in the Book of Romans that those who serve in the halls of government are actually Your ''ministers.'' Remind us that the work to be done here today is larger than any particular individual or political party.

Grant wisdom, O Lord, to this assembly that they might understand their responsibility not only to the people of this great Nation, but primarily to You.

May we understand what former President Grover Cleveland said, that ''those who manage the affairs of government . . . should be courageously true to the interest of the people, and that the Ruler of the Universe will require of them a strict account of their stewardship.''

Turn us, O Lord, back to you in humble contrition and acknowledgment of Your will and Your ways, for it is in the name of Jesus, our Redeemer, and Saviour that we humbly pray.

Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will immediately resume consideration of the Defense authorization bill. Under the order, we will resume debate on the Kennedy amendment relating to the earth penetrator. There will be 50 minutes of debate per side prior to the vote in relation to that amendment. Members should expect the first vote today prior to the policy luncheon recess.

As a reminder, the Senate will recess from 12:30 to 2:15 for the weekly policy meetings.

Last night, the Senate debated several amendments, and others are waiting in the queue to be offered. I anticipated that we would have votes today throughout the afternoon on some of the pending amendments. I have also previously mentioned the need to set votes on some of the pending judicial nominations. We expect to set three of those judicial nominations for votes late this afternoon, and we will alert Senators as to the precise time when the agreement is locked in.

As I have stated previously, it will be helpful if we can vote on some of these noncontroversial nominations by voice vote and not consume valuable Senate time with rollcall votes that result in unanimous confirmations. I will reiterate the importance of finishing the Defense bill this week. We have a number of scheduling requests, and we are doing our very best to work around those specific requests. However, Members should be prepared for busy days and evenings, if necessary, to finish this important defense legislation.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time to make a relatively brief statement.

The PRESIDENT pro tempore. The Democratic leader is recognized for that purpose.

Mr. DASCHLE. Mr. President, over the past 4 years, our nation has gained a renewed awareness of the bravery and sacrifice of America's service men and women.

And through the exceptional valor they have routinely displayed, America has also gained a renewed sense of gratitude for the service of our veterans.

So it was with a heightened sense of respect and appreciation that America commemorated the recent anniversary of D-Day and Memorial Day, and dedicated the long-overdue memorial to the generation that fought and won World War II.

The veterans who came to Washington expecting to find one tribute cast in stone, encountered many living tributes, just as meaningful, and just as enduring.

Americans of all ages, of all backgrounds, said ''thank you'' to the veterans who fought for them. Some gave gifts of American flags. Others asked for pictures.

I recently heard a story about two World War II veterans who were eating dinner at a restaurant, when a young man they had never met thanked them, and struck up a conversation.

He asked about their service, and told them that two of his relatives didn't make it home from Europe.

When it came time for the two older men to pay the tab, they found that the young man had already paid it. He left a card that said, ''To two old guys who paid the price, but who are not going to pay today.''

The memory of our veterans' achievements will live on long after them, and all Americans should feel proud that, in this way, we have kept faith with our veterans.

But a shadow is cast over the tributes now paid to our veterans, and indeed, to our soldiers fighting in uniform today.

There seems to be a gap between the thanks America offers its veterans in word, and the thanks our government shows veterans in deed.

● 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 waits at the VA hospital are too long.

Veterans are paying record amounts out-of-pocket for VA health services.

In recent days, we have learned that the White House is planning new cuts for FY06, even as the VA faces an influx of war veterans from Iraq.

This year, as in every election year, Americans will ask themselves, am I better off than I was four years ago? Am I safer? Am I more financially secure? Do I have better access to prescription drugs and health care than before?

In the coming months, America's 26 million veterans will be asking themselves those same questions. All America would do well to listen to their answers.

Recently, I heard from a South Dakotan named Howard Anderson.

Howard is 77 years old, a veteran of World War II. Howard is grateful to the doctors and nurses at the VA, but feels squeezed by the rising cost of prescription drugs.

On average, he pays around $90 per month for medicine to treat his lung condition.

The VA won't pay for his medications because he makes too much money even though he and his wife live on their Social Security. ''At the end of the month,'' he said, ''I couldn't write you a check for a dollar.''

Not long ago, the VA sent Howard a letter notifying him that he owed another $300 for prescriptions.

After the shock wore off, Howard went back through his receipts and found he was being double-charged.

It had happened before, but he didn't have the patience to battle through the bureaucracy to make it right again, so he just paid the bill. This time, he just couldn't afford it.

The VA ultimately admitted it was making a mistake. But Howard is beginning to get the sense that tight budgets have forced the VA to become more aggressive about denying care or sending the bill to the veteran.

''They say these benefits are there for you,'' he says, ''but when you go to get them, they don't give them to you.''

Let me say that the problems with the VA health system are not the fault of the doctors and nurses and the other men and women who work at VA hospitals and clinics.

They are among the most talented, most dedicated health professionals in this country. But they can only do so much with the resources they are given.

And from the first days of this Administration, the White House has systematically tried to reduce veterans benefits, cut funding to the VA, and shortchange the health care of America's veterans.

Over the past four years, the budget for veterans' health has risen far less than the rate of health care inflation, forcing VA hospitals to meet rising demand with shrinking resources.

The White House's 2005 budget deepens this trend by including only a 1.9 percent funding increase, barely one-sixth of the rate at which health care costs are increasing nationwide.

Overall, the White House budget falls over $4.1 billion short of veterans' needs, according to the Independent Budget created by leading nonpartisan veterans groups.

Not only would the White House's budget strain VA hospital budgets to the breaking point, it would drive nearly 800,000 veterans out of the VA health system.

Eight-hundred thousand Americans who were promised health care in exchange for their service to their country will be denied and kicked off the rolls for no reason other than the Administration's refusal to adequately fund veterans' health.

This would be on top of a recent decision by President Bush to deny our obligations to 200,000 Priority 8 veterans and keep them from enrolling in the VA health care system.

Those veterans who remain in the system have been forced to pay more, much more. Over the course of the last three years, the amount veterans have paid toward their own care has increased a staggering 340 percent, or $561 million.

And if the White House gets its way, veterans would need to pick up over a half-billion dollars more of their care in 2005, if the budget proposals as we have now witnessed them go through.

Some within this administration seem to believe that our responsibility to our soldiers is when they come home, but we couldn't disagree more.

If it were not for the efforts of many in Congress, the story would be much worse. Since President Bush took office, we have led the charge to add a total of almost $2 billion in funding for veterans health care beyond what the President proposed.

Moreover, in each of the last 3 years, Democrats have blocked Bush administration attempts to increase copayments and enrollment fees even higher. Is this the same President who ran for election with a pledge to veterans that ''help is on the way''?

In the next few days, some of us will offer an amendment to make a simple promise to our veterans: If you wore the uniform of our Nation, if you fought under our flag, your health care needs will be met for life. The full funding of veterans health care would be made mandatory under the law.

For too long, the VA budget has been subject to the give-and-take of budget politics. It is time we set things straight.

Funding for the VA should no longer be set by political convenience, backroom deals, or zero sum game of budget politics. One thing, and one thing alone, should govern the care of our veterans: the needs of care for those veterans.

Senate Democrats have also been fighting, and we will continue to fight, for full concurrent receipt of all disabled veterans under the remarkable leadership of my colleague, the distinguished assistant Democratic leader from Nevada.

The Bush administration has repeatedly threatened to veto concurrent receipt, and last year the White House called together leading veterans organizations to propose a compromise: We will give you full concurrent receipt but only if you agree to end disability benefits for two-thirds of all veterans.

Veterans organizations and their allies in Congress rejected the inadequate proposal. Instead, thanks in large part to Senator REID, Democrats were able to pass a provision to allow veterans rated 50-percent disabled or more to receive full concurrent receipt.

We have made progress on concurrent receipt since the last election, but it has been in spite of the administration, not because of it. What we have achieved so far is just a downpayment on what disabled veterans have been promised and what they deserve. How could we do otherwise? How could we let our country move forward and leave behind the men and women whose bravery has won our freedom and prosperity?

The debt we owe our veterans is unending. But just because we could never hope to repay fully our obligations to our veterans does not excuse us from trying. Today we are further away from doing right by our veterans than ever before.

America's veterans are not better off than they were 4 years ago. When he signed the GI Bill of Rights in 1944, President Roosevelt noted that ''the members of our Armed Forces have been compelled to make greater . . . sacrifices than the rest of us, and they are entitled to definite action to take care of their special problems.''

The current White House has allowed ''definite action'' to give way to little more than indefinite praise. Veterans deserve better. The soldiers fighting this very day, at this very moment, deserve better.

I think back to that young man 2 weeks ago who looked upon two men to whom he owed his freedom and way of life, and he knew enough to say thank you.

Then I think of Howard Anderson who did pay the price but is being denied help by the Government because it refuses to fully fund veterans health. Howard Anderson and all veterans are owed a debt.

We should acknowledge that debt every day, not just in stone monuments or in lofty speeches or bright parades. It should be repaid in a real and concrete commitment to care for veterans in the days when veterans need it the most.

These men and women risked their lives to defend our own. They stood up for us, and now we must stand up for them, not just with words but with action.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time that has not been used is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and other purposes.

Pending:

Kennedy amendment No. 3263, to prohibit the use of funds for the support of new nuclear weapons development under the Stockpile Services Advanced Concepts Initiative or for the Robust Nuclear Earth Penetrator (RNEP).

Reid (for Leahy) amendment No. 3292, to amend title 18, United States Code, to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts.

Dodd modified amendment No. 3313, to prohibit the use of contractors for certain Department of Defense activities and to establish limitations on the transfer of custody of prisoners of the Department of Defense.

Smith/Kennedy amendment No. 3183, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes.

The PRESIDENT pro tempore. The Senator from Colorado.

AMENDMENT NO. 3263

Mr. ALLARD. Mr. President, I understand we now have the Defense authorization bill before us and an amendment to that bill, which is the Kennedy-Feinstein amendment; is that the regular order?

The PRESIDENT pro tempore. The Senator is correct.

Mr. ALLARD. I thank the Chair. I yield the floor. The sponsor of that amendment wishes to make a few comments, and I wish to follow with a few comments.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator AKAKA be added as a cosponsor of the Kennedy-Feinstein amendment No. 3263.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I understand we have a time allocation of 50 minutes.

The PRESIDENT pro tempore. There is an allocation of 50 minutes on each side on the Kennedy amendment.

Mr. KENNEDY. On our side, the Senator from Michigan, our ranking member, has been allocated 10 minutes.

The PRESIDENT pro tempore. The Senator from Michigan is allocated 10 minutes; the Senator is correct.

Mr. KENNEDY. Mr. President, I yield myself 12 minutes.

We face many different issues in foreign policy, national defense, and the war on terrorism. But one issue is crystal clear: America should not launch a new nuclear arms race.

We want our children and grandchildren to live in a world that is less dangerous, not more dangerous—with fewer nuclear weapons, not more. But that is not the course that the Bush administration is taking. Even as we try to persuade North Korea to pull back from the brink—even as we try to persuade Iran to end its nuclear weapons program—even as we urge the nations of the former Soviet Union to secure their nuclear materials and arsenals from terrorists—the Bush administration now wants to escalate the nuclear threat by developing two new kinds of nuclear weapons for the United States—mini-nukes that can be used more easily on the battlefield, and bunker busters to attack sites buried deeply underground.

As President Reagan would say, ''There you go again''—another major blunder in foreign policy. Our goal is to prevent nuclear proliferation. How does it help for us to start developing a new generation of nuclear weapons?

It's a shameful double standard. As Mohammed El Baradei, the director of the International Atomic Energy Agency, said in an address to the Council of Foreign Relations in New York City said last month, ''there are some who have continued to dangle a cigarette from their mouth and tell everybody else not to smoke.''

The specter of nuclear war looms even larger with the ominous statements of senior officials in the Bush administration that they in fact consider these new weapons more ''usable.'' If the Bush administration has its way, the next war could very well be a nuclear war, started by a nuclear first strike by the United States.

It is hard to imagine a dumber idea. The amendment that the Senator from California and I are offering will put a halt to the Bush administration's plan to develop these new nuclear weapons. Just as ''lite'' cigarettes still cause deadly cancer, lower yield nuclear weapons will still cause massive death and destruction. No matter what you call them, a nuclear weapon is a nuclear weapon.

They still incinerate everything in their path. They still kill and injure hundreds of thousands of people. They still scatter dangerous fallout over hundreds of miles. They still leave vast areas that are radioactive and uninhabitable for years to come.

There are few more vivid examples of the misguided priorities of the Bush administration. For the past 15 months, our troops in Iraq have been under fire every day. They were sent into battle without the latest and best bulletproof vests and without armored Humvees. They were placed at greater risk, denied the basic equipment they needed to protect themselves and do their jobs. Meanwhile, the Bush administration is urging Congress to provide hundreds of millions of dollars for new nuclear weapons.

The mini-nuke has a yield of five kilotons or less. That's still half the size of the atomic bomb dropped on Hiroshima that killed more than 100,000 people—at least a third of the city's population. Is it somehow more acceptable to produce a modern nuclear bomb that kills only tens of thousands instead of a hundred thousand?

The Bush administration also has extensive plans to develop the ''bunker buster,'' or, as the administration calls it, the Robust Nuclear Earth Penetrator. It would carry a nuclear warhead of around 100 kilotons—ten times the size of the bomb dropped on Hiroshima. It would be placed in a hardened cone capable of burrowing deep underground before exploding.

Even with today's advanced technology, they would still spew thousands of tons of radioactive ash into the atmosphere.

There are more effective ways to disable underground bunkers. Using today's highly accurate conventional weapons, we can destroy the intake valves for air and water. We can knock out their electricity. And we can destroy the entrances, preventing people and supplies from going in or getting out.

In fact, by rushing to develop these weapons, the Bush administration misses the point. The challenge of destroying deep underground bunkers is not solved with nuclear weapons. It will be solved by developing missile cones that can penetrate deeper into the earth without being destroyed on impact.

The bill before us authorizes a study of these two new nuclear weapons systems. It provides $9 million for the development of advanced concepts for nuclear weapons, the so-called ''mini-nukes,'' and more than $27 million for the robust nuclear earth penetrator, the so-called bunker busters.

Those who support the development of these weapons suggest that it is only research and that the research will have little effect on the rest of the world. The supporters of these weapons argue that since the funds are limited to research, the administration will not go on to produce these weapons without congressional approval. That is what Secretary Rumsfeld claimed when he testified before the House Appropriations Committee in February. He said that what has been proposed is some funds be used to study and determine the extent to which a deep earth penetrator conceivably could be developed, what it would look like, and whether it makes sense to do it. There are no funds in here to do it. There are no funds in here to deploy it since it does not exist.

The administration's own budget contradicts that statement. Its budget assumes we will spend $485 million on

these weapons over the next 5 years. It has a detailed plan for their development and production. I have in my hand their projection by the Congressional Budget Office of the development of this program for some $485 million from now through 2009, and it anticipates the completion of the development phase in fiscal year 2007. We can see it right in their proposals. Then it has the continued development of the program itself.

This is the clear indication of what the administration is intending. It is in their budget. It is $485 million, and it is right there just with regard to the bunker buster just as it is with regard to the nuke. We will see that it goes on through fiscal year 2009 as well. So if we do not adopt this amendment, we can be confident that the administration will build them. After that, as the administration's own nuclear experts have said, they will ultimately deploy them and use them.

In fact, in our debate 2 weeks ago, my colleague from Arizona described a situation in which he believed they should be used. He claimed conventional bunker busters were incapable of knocking out Saddam Hussein in those early days of the war and that only nuclear weapons could have destroyed his deeply buried hardened bunkers.

If that is the plan for these weapons, then the prospect is even more frightening for our troops, for America, and for the world. Is the Senator from Arizona truly suggesting we should have used a nuclear weapon to hit Saddam Hussein's bunkers last May? Baghdad is a city of over 5 million Iraqis. We would have killed hundreds of thousands of people, including American aid workers and journalists. We would have turned the entire area into a radioactive wasteland. And all to capture the person we captured with conventional means a few months later?

Using a nuclear weapon to strike Saddam Hussein would have inflamed the hatred of America in Iraq and the Arab world far beyond anything we have seen in response to the prison scandal at Abu Ghraib. It would have poisoned our relations with the rest of the world and turned us into an international pariah for generations to come.

The President told us this winter that there is a consensus among nations that proliferation cannot be tolerated. He added that this consensus means little unless it is translated into action. But the administration's idea of action is preposterous. It only encourages a dangerous new arms race and promotes proliferation. By building new nuclear weapons, the President would be rekindling the nuclear arms race that should have ended with the end of the cold war.

He has given inadequate support to nonproliferation efforts with Russia. With the Moscow treaty, the deep cuts in our nuclear arsenals would not be permanent since we could keep a large number of such weapons in storage, capable of being activated and used in the future.

In January 2002, the Pentagon released a document called the Nuclear Posture Review, and despite subsequent efforts to downplay its significance, its tone of recommendations revealed the dangerous new direction in our nuclear policy. The double standard is clear. The rest of the world must abandon the development of nuclear weapons, but the United States can continue to build new weapons.

As is pointed out in the Nuclear Posture Review, it talks about the second principal finding is the United States requires a much smaller nuclear arsenal under the present circumstances, but first the nuclear weapons are playing a smaller role in U.S. security than at any other time in the nuclear age. Then it goes on to talk about the alternatives that are being developed with the smaller nuclear weapons.

The Bush administration thinks the United States can move the world in one direction while we move in another; that we can continue to prevail on other countries not to develop nuclear weapons while we develop new tactical applications for these weapons and possibly resume nuclear testing.

The PRESIDING OFFICER (Mr. ENZI). The Senator's time has expired.

Mr. KENNEDY. I yield myself 2 additional minutes.

The decision the administration has made on nuclear posture reverses 50 years of bipartisan commitment to arms control. Over the past 50 years, we have halted and reversed the nuclear arms race, and now we are starting to escalate it again. It makes no sense to undermine half a century of progress on nuclear arms control and start going backward. And all for what? To deal with emerging threats we can already handle with conventional weapons.

Even the House Republicans have acknowledged the flaw in the administration's plan. Chairman Hobson eliminated all funding for these mini-nukes and bunker busters, saying that the National Nuclear Security Administration needs to take a time out on new initiatives until it completes a review of its weapons complex in relation to security needs and budget constraints, and the administration's own new plan to eliminate half of our stockpiled warheads. That is the conclusion of the House of Representatives after extensive hearings.

The Bush administration is asking Congress to buy something that we do not need and we will never use, that makes our goals for a peaceful world much more difficult to achieve, and that endangers us by its mere existence.

Over the period of this last half century, Democrats and Republicans have pursued sensible arms control, engaged the world in nearly a global commitment to nonproliferation, and demonstrated the will of the United States to pursue counterproliferation when diplomacy failed to stop illicit flows of weapons of mass destruction.

President Kennedy started the process that would lead to the nonproliferation treaty, but he could not finish it. President Johnson picked up where he left off and signed it, but he did not have time to ratify it before his term ended. President Nixon ratified it. Presidents Ford, Carter, and Reagan negotiated SALT and START. President Bush signed START I and START II. President Clinton signed START III and led America through the massive post-cold-war reduction in its nuclear arsenal. That is the record: Democrat and Republican alike moving us away from nuclear escalation, and that is what this amendment will continue.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I rise today in opposition to the Kennedy-Feinstein amendment that would strip the authorization for funding for the robust nuclear earth penetrator and the advanced concepts. Again, we have heard the argument of how somehow or another we would have further world peace if we just weakened America, and I could not disagree more with that.

I believe we do have peace through strength, and what we have in this particular legislation is a study to study where the strengths are of our adversaries and where the proper response to those strengths would be. I do not think anybody has any preconceived notion of how this study should come out; we just think we need to know some vital information to make sure America remains strong.

I am disappointed once again by the efforts of those on the other side of the aisle to eliminate altogether this administration's effort to study options for modernizing our nuclear deterrent. To me, it seems that sponsors of this amendment may not fully understand how important it is for the United States to maintain a credible deterrent, or how a modernized deterrent could result in a substantial reduction in our nuclear stockpile.

Over the last several years, the Department of Defense closely examined our nuclear weapons posture. It became apparent that the cold-war paradigm of mutually assured destruction was no longer an appropriate response for the United States. Increasingly, irrational rogue nations and nonstate actors have emerged as a greater threat to U.S. security than historical adversaries. As part of this examination, it was discovered that many of our adversaries are building increasingly hardened and more deeply buried facilities in order to protect high-value targets such as command and control nodes, ballistic missiles, and, in some cases, the actual development of facilities for weapons of mass destruction.

Many of these buried targets are immune to our conventional weapons. Therefore, our ability to deter such undesired activities is greatly eroded.

The need to hold these targets at risk became so apparent that in 1994 U.S. Strategic Command and Air Combat Command issued a mission needs statement for a capability to defeat hardened and deeply buried targets.

In 1997, the Department conducted an analysis of alternatives to address intelligence and strike capabilities related to defeating hardened and deeply buried targets. To almost everyone's surprise, the analysis of alternatives found that not all hardened and deeply buried targets could be defeated by current or conceptual conventional weapons.

Then, in 1999, the Vice Chairman of the Joint Chief of Staff requested that a capstone requirements document for hardened and deeply buried targets be developed. Again, this document provided additional justification for a requirement for both conventional and nuclear weapons capable of defeating these targets.

Meanwhile, during these military studies and analyses, the Clinton administration was already building and deploying an interim nuclear earth penetrator.

I have noticed that the advocates of the Kennedy-Feinstein amendment have tried to place the blame on the Bush administration. But here we are—the Clinton administration building and deploying an interim nuclear earth penetrator. Even he recognized the need and the changing environment in which we must act in order to maintain a strong America.

The modified nuclear weapon was designated the B61–11 and entered service in April 1997. While this weapon provided a limited capability, it does not have capability to defeat all types of hard and deeply buried targets.

With this history in mind, it surprises me that once again we are here to debate whether we should go forward with a feasibility study on a modified nuclear weapon and whether our scientists can explore nuclear weapon concepts.

Let me take a moment to respond to clear up some misconceptions that have been suggested by the supporters of Kennedy amendment.

First, opponents of RNEP argue that conventionally armed ''bunker buster'' weapons are sufficiently effective to destroy hardened and deeply buried targets. Clearly, advanced conventional earth penetrators are the weapon of choice for most hardened and deeply buried facilities, but according to the Department of Defense, they are not effective against a growing class of hardened and deeply buried targets. Moreover, the precise location of surface support facilities are not always known, and at best, we can only hope to disrupt the operation of a hardened or deeply buried target for a few hours or days at most.

The second argument used by opponents of RNEP is that any modifications to the U.S. nuclear weapons arsenal will encourage other nations to develop new nuclear weapons. This argument suggests that there is a direct correlation between our activities and those of other nations. I could not disagree more with this notion.

Over the last 10 years, we have conducted very little work on new nuclear weapons. Yet Pakistan and India have conducted nuclear tests. Russia and China continue to develop nuclear weapons. And, countries such as Iran and North Korea are secretly working to build new nuclear weapons. All of this activity has taken place without the U.S. taking any action with regard to our nuclear stockpile.

In response to our mini-nukes, first, ''battlefield nuclear weapons'' would be tactical, not strategic. Second, President George H.W. Bush's Presidential Nuclear Initiative, announced September 27, 1991, did away with all U.S. battlefield nuclear weapons. In fact the Pantex plant in Amarillo, TX, dismantled the last battlefield nuclear weapon, the W–79 artillery shell in 2003. The administration has no plans to change that decision. Nor are there plans by the Department of Defense or Department of Energy to research or develop ''battlefield nuclear weapons.'' The administration believes that nuclear weapons are strategic weapons of last resort.

In fact, if the United States does not show that it is serious about ensuring the viability of our entire military capability, including our weapons of last resort, we might not be able to dissuade potential adversaries from developing weapons of mass destruction and deter those adversaries from using those weapons they already have.

The third argument used by opponents of RNEP is that the administration has already decided to develop, build, and test a new robust nuclear earth penetrator. They point to a Congressional Research Service report that seems to suggest that the RNEP is not merely a study because the budget projections over the next 5 years are nearly $500 million for the program.

To be clear, it was Congress that directed the Department of Energy to prepare 5-year budget profiles. The nearly $500 million outlined in the latest profile is only a projection of what the costs might be if the results of the feasibility study are reasonable, the administration opts to proceed, and the Congress approves the development of such a weapon.

We must keep in mind that the administration cannot begin the development, much less build or test, a new robust nuclear earth penetrator without the expressed approval from Congress. Section 3117 of the Fiscal Year 2004 National Defense Authorization bill makes this clear. It specifically states that ''the Secretary of Energy may not commence the engineering development phase of the nuclear weapons development process, or any subsequent process, of a Robust Nuclear Earth Penetrator weapons unless specifically authorized by Congress.''

The fourth argument used by opponents of RNEP, and perhaps the most egregious, is that the RNEP will lower the nuclear threshold. Crossing the nuclear threshold represents a momentous decision for any President. A nuclear weapon's size or purpose does not alter the gravity of the decision for using a nuclear weapon. No President would use a nuclear weapon unless it was the option of last resort.

Therefore, to suggest that simply modernizing a nuclear weapon automatically lowers the rigor and deliberation in deciding to employ that weapon is unfounded.

The success of our goal of assuring our allies and dissuading potential adversaries is dependent upon a modern, effective nuclear detterent that can counter today's threats. We must keep in mind that the current U.S. stockpile was developed for very different purposes than the threats that exist today. It was developed for a massive nuclear exchange with one nation. Today, these weapons are too powerful and may result in greater damage than necessary to neutralize a target.

Moreover, these weapons continue to age, making it increasingly more difficult to predict their reliability. We depend upon their reliability, as do our allies and our troops in the field.

We must also recognize that a modernized nuclear stockpile will result in significant reductions in our stockpile. If we have specific weapons that can hold certain targets at risk, it will not be necessary to have a vast inventory of strategic nuclear warheads. This path forward would yield substantial cost savings and, more importantly, demonstrate our country's commitment to reducing nuclear stockpiles around the world.

For over 50 years, we, as a Congress, and every President have agreed that nuclear weapons are a critical element of our national security strategy. They remain so today. I believe a modernized detterent will help ensure that our adversaries are deterred tomorrow.

Therefore, I will oppose this amendment and urge my colleagues to oppose it as well.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. DORGAN. Mr. President, perhaps I do not understand all I should, and I certainly do not understand the term ''modernization of nuclear weapons.'' We have thousands of nuclear weapons in this world. We control thousands of them in this country. Modernization? It appears now in this debate to be a euphemism for building new nuclear weapons, designer nuclear weapons, usable nuclear weapons, the kinds of weapons you might use, for example, to bust into caves, the ground, bunker busters.

That is the purpose of this amendment, to stop this march toward production of more nuclear weapons. This country ought to be leading in exactly the other direction.

Let me read from Time magazine in March of 2002.

For a few harrowing weeks last fall, a group of U.S. officials believed that the worst nightmare of their lives—something even more horrific than 9/11—was about to come true. In October an intelligence alert went out to a small number of government agencies, including the Energy Department's top-secret Nuclear Emergency Search Team, based in Nevada. The report said that terrorists were thought to have obtained a 10-kiloton nuclear weapon from the Russian arsenal and planned to smuggle it into New York City. The source of the report was a mercurial agent code-named DRAGONFIRE, who intelligence officials believed was of ''undetermined'' reliability. But DRAGONFIRE's claim tracked with a report from a Russian general who believed his forces were missing a 10-kiloton device. Since the mid-'90s, proliferation experts have suspected that several portable nuclear devices might be missing from the Russian stockpile. That made the DRAGONFIRE report alarming. So did this: detonated in lower Manhattan, a 10-kiloton bomb would kill some 100,000 civilians and irradiate 700,000 more, flattening everything in a half-mile diameter. And so counterterrorist investigators went on their highest state of alert.

''It was brutal,'' a U.S. official told TIME. It was also highly classified and closely guarded. Under the aegis of the White House's Counterterrorism Security Group, part of the National Security Council, the suspected nuke was kept secret so as not to panic the people of New York. Senior FBI officials were not in the loop. Former mayor Rudolph Giuliani says he was never told about the threat. In the end, the investigators found nothing and concluded that DRAGONFIRE's information was false. But few of them slept better. They had made a chilling realization: if terrorists did manage to smuggle a nuclear weapon into the city, there was almost nothing anyone could do about it.

Our experts thought, based on some evidence from some folks in the intelligence community, that one nuclear weapon was missing from the Russian arsenal and might be detonated in the middle of an American city. Now, there are tens of thousands of nuclear weapons in the world. We think, probably, between 25,000 and 30,000 nuclear weapons. One missing would be devastating. One of them acquired by terrorists would be devastating.

Our job is not to come to the Senate these days with the Defense authorization bill and parrot the line of those who are reckless on this entire subject, saying what we really need to do is to build more nuclear weapons, to build bunker busters, earth-penetrator weapons, to talk about using them, to talk about testing nuclear weapons. That is not our job. It is not our responsibility.

Our responsibility is to move in exactly the opposite direction. It is our responsibility to lead the way to stop the spread of nuclear weapons, especially to stop the spread of nuclear weapons, No. 1; No. 2, to safeguard the stockpiles of nuclear weapons that already exist—yes, with us, with Russia and elsewhere; and then No. 3, and very importantly, to begin the long march toward the reduction of nuclear weapons.

It ought to be our responsibility as a world leader to say we are going to try to do everything we can to see that a nuclear weapon is never again used in conflict and that we begin to reduce the stockpiles of nuclear weapons in this world.

For months now, as I have heard people in positions of responsibility talk about the potential of designing new lower yield nuclear weapons or earth-penetrator nuclear weapons so that we can use them, I have shook my head and thought, what on Earth are they thinking about? Our job is to provide world leadership to try to find a way to reduce the stockpile of nuclear weapons in this world, to safeguard the stockpile of weapons that already exist, make sure terrorists never get their hands on one, stop the spread of nuclear weapons to other countries and to terrorist organizations and begin the march toward the reduction of the stockpile of nuclear weapons.

If we begin this process to talk about modernization and testing and building new nuclear weapons and building designer nuclear weapons, and finding nuclear weapons that will bust into caves, it will not leave this world a safer place. It will make this world a more dangerous place. It is, in my judgment, a reckless course.

I hope with all my might that the amendment being offered today to stop this march toward the building of new nuclear weapons and the discussion about the plausibility of simply using nuclear weapons as another device in conflict, I hope with all my might we stop it dead in the Senate right now.

We have a responsibility. That responsibility is world leadership.

I mentioned the article in Time magazine. The potential of one 10-kiloton nuclear weapon missing from the Russian arsenal acquired by terrorists to be detonated in an American city was devastating news to an intelligence community that became apoplectic about it, and should have been. That was just one, and there are nearly 30,000 nuclear weapons.

Our responsibility is to make sure not that we build more, to make sure we reduce the stockpile of nuclear weapons and reduce the danger of nuclear weapons.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

As I mentioned before, we have a very proud tradition of moving the United States away from nuclear confrontation. I mentioned the start of that effort by President Kennedy beginning the process of nonproliferation. President Johnson picked up where he left off, although he did not have sufficient time. But President Nixon ratified it. Presidents Ford, Carter, and Reagan negotiated SALT and START. President Bush signed START and START II and President Clinton START III.

What do they know that this President does not know? Why do we have Republicans and Democrats moving away from the brink of nuclear escalation? What are we talking about? Five kilotons would cause 280,000 casualities, 230,000 fatalities. That is what we are talking about with small nuclear weapons.

This is not just modernization. The Senator from Colorado knows we have a very active program now being reviewed by scientists to make sure we have an adequate deterrent. What is the effect if you dropped a 5-kiloton nuclear weapon on Damascus: 280,000 casualties, 230,000 fatalities.

Just before the first gulf war, the Chairman of the Joint Chiefs of Staff, Colin Powell, commissioned a study of the possibility of the use of small nuclear weapons on the battlefield. He rejected all of them because, he said, ''they have no battlefield utility.''

If the Senator from Colorado can show us where we had any hearings, where any of the Joint Chiefs of Staff have testified they want this kind of weapon, I am interested. He cannot because we have not had any hearings.

This is a statement from the Administrator of the National Nuclear Security Administration in response to a question on April 8, 2003: I have a bias in favor of the lowest usable yield. I have a bias in favor of things that might be usable.

There it is, a statement from the No. 1 person in the administration.

We have in the RECORD the 5-year program in terms of the development of these weapons, $485 million. We have in the RECORD the costs of the small nukes, $82 million. Why are we being asked to go ahead and walk down this path where we have Republican and Democrats and the Chair of the Joint Chiefs of Staff saying this is a mistake?

What in the world does the Senator from Colorado know that these Presidents did not know? Where is the testimony before our Armed Services Committee showing these will be usable?

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ALLARD. Mr. President, to suggest that somehow or the other this particular President does not want to be a leader in reducing nuclear threats is absurd.

I call to the attention of the Members of the Senate the Moscow Treaty which was put together at the first of this administration. He brought down some 8,000 warheads to 1,700 to 2,200 active warheads.

The result from our potential adversaries is to produce more nuclear warheads. Our adversaries are not necessarily responding to what we do in the United States. Take India and Afghanistan. They are more interested in

how each other's country is responding to that issue. They are not that concerned about what is happening here. Despite that, they continue to be proliferating. And there is always the potential they could be proliferating warheads that could have an impact on us.

We know our adversaries are building hard bunkers, deeply buried. This particular piece of legislation is not putting in place the engineering or development of nuclear warheads. I have just shared that language with my colleagues. But what we are looking at is a study. I think it is foolhardy and irresponsible to not even look at the facts, to not call for a study to see where we are in relation to the rest of the world. We know other countries, other than just Afghanistan, such as North Korea—I don't see a real stepdown as far as Russia and other countries around the world. We know Iran, admittedly, is looking at a nuclear weapons program.

So this is an important step in making sure that America remains secure. I think it is a responsible step because we are saying that in order to maintain peace in this world we need to have a strong America. If we want to have some response to terrorism and that flexible threat we have out there, we have to have a more flexible defense posture. We need to look at alternatives. And, yes, I believe terrorists throughout the world have the potential of being a real threat to this country, although the main threat that is recognized today is from many of those countries that I cited.

But that is why it is important to have a study. I think those people in the know—whether they are in the Bush administration or were in the Clinton administration—agree we need to stay on top of this issue. I think the irresponsibility would be for us to bury our heads in the sand and ignore the fact that the world is changing. The fact is, the world is changing, the threat is changing, and for us to deal with those potential threats, we need to look at modernizing our ability to deal with those changing threats. That is what the provision in this particular bill is all about.

Mr. President, I yield the floor.

Mr. AKAKA. Mr. President, I rise today in support of the amendment offered by Senators KENNEDY and FEINSTEIN to prohibit the use of funds for the support of new nuclear weapons development.

Passage of this amendment would ensure that the United States will not develop new nuclear weapons while at the same time asking other nations to give up their own weapons development programs.

Unfortunately, today we live in a world where governments and terrorists are seeking to create and acquire weapons of mass destruction. I am deeply concerned that we are not doing enough to stop the potential flow of weapons and weapon materials to terrorist organizations. Rather than devoting scarce resources to researching new nuclear weapons we should be securing nuclear material already in existence.

The administration's plans to develop new weapons and modify old types of weapons will compromise U.S. security by undermining efforts to make worldwide cooperation on nonproliferation of nuclear and other weapons of mass destruction, WMD, more effective.

The first Bush administration prohibited work on nuclear weapons then under development and halted nuclear testing except for safety and reliability, effectively bringing work on new weapons types to a close.

In contrast, I believe this administration's nuclear initiatives are creating a new kind of arms race by expanding our weapon development programs.

The United States pledged in the Nuclear Nonproliferation Treaty ''to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament.'' This is still a worthy objective.

However, instead of strengthening nonproliferation efforts, the administration has requested $27.6 million for the Robust Nuclear Earth Penetrator, RNEP, for fiscal year 2005. The request would continue a study to modify an existing weapon to penetrate completely into the ground before detonating, increasing its ability to destroy buried targets.

The RNEP is a bad idea for a number of reasons. First, it is a common misconception that a weapon detonated a few meters underground creates less fallout. In fact, a weapon detonated at a shallow depth would actually create more fallout than if it were detonated on the surface.

Nuclear testing done in the 1960s demonstrated that weapons detonated deep underground can produce large amounts of fallout. In order to prevent this during underground testing done at the Nevada Test Site, detonations were required to be at least 600 feet underground, with no vertical shaft open to the atmosphere. This scenario cannot happen in a battlefield situation.

We do not have the ability to drive a weapon down to the depths that would be required to prevent huge quantities of fallout from occurring, and even if we did, the hole created by the weapon would allow the fallout to escape to the atmosphere. Even a low-yield RNEP would kill large numbers of people from both the blast and from the inevitable fallout that would follow.

The RNEP study was initially projected to cost $45 million—$15 million a year for fiscal year 2003–2005. It is now projected to cost $71 million, which is too much money to research a weapon that in many ways duplicates what conventional weapons can do already.

Additionally, the budget request includes figures through fiscal year 2009 that total $484.7 million and includes placeholders for both the development-engineering and production-engineering phases. This may indicate that the RNEP study is more than just a study and is in fact being undertaken with the foregone conclusion that the weapon will go into development. This amendment would effectively stop funding for this weapon.

The administration argues that these weapons programs are needed to increase deterrence from a new kind of threat. I do not believe these weapons will deter other nations or terrorists. If other nations see the U.S. developing new nuclear weapons, they are likely to think that they need new weapons for their security as well.

We already know that terrorists are trying to acquire nuclear weapons. Director of Central Intelligence, George Tenet, warned the Armed Services Committee once again in March of al-Qaida interest in chemical, biological, radiological and nuclear, CBRN, weapons.

Director Tenet said, ''Acquiring these remains a 'religious obligation' in Bin Ladin's eyes, and al-Qaida and more than two dozen other terrorist groups are pursuing CBRN materials. Over the last year, we've also seen an increase in the threat of more sophisticated CBRN. For this reason, we take very seriously the threat of a CBRN attack.'' We cannot afford this risk.

I urge my colleagues to support the Kennedy-Feinstein amendment to stop funding new nuclear weapons development programs.

Mr. BIDEN. Mr. President, I support the amendment offered by Senator KENNEDY and Senator FEINSTEIN to prohibit the use of funds for the Robust Nuclear Earth Penetrator and for the development of new nuclear weapons concepts.

Both the administration's policy of pre-emptive war and the suggestion, reportedly included in the Nuclear Posture Review, that it might use nuclear weapons against non-nuclear countries undercut U.S. non-proliferation pronouncements. And these policies form the context in which we must evaluate administration proposals for new nuclear weapons research.

Moves to make nuclear weapons just another part of the U.S. arsenal of usable weapons send a strong and unmistakable message to other countries: the only way to deter the United States is to have nuclear weapons of your own.

The President's agenda for a new generation of nuclear weapons is included in the bill before us today, which funds the Robust Nuclear Earth Penetrator, the Advanced Concepts Initiative—which could include low-yield nuclear weapons—and the Modern Pit Facility. Funds for the Robust Nuclear Earth Penetrator, known as RNEP, or the bunker buster, are supposed to cover a ''study'' of turning existing nuclear bombs into earth penetrators. But what a robust study this is. The 5-year budget required by Congress and submitted by the Department of Energy funds the ''study'' at $27.6 million

in fiscal year 2005, but the 5-year total balloons to $484.7 million.

Last year, Congress passed amendments that required congressional authorization before later phases and developmental engineering of RNEP could take place. The price tag suggests that the administration sees RNEP as far more than a study; it is clearly looking ahead to the development and fielding of a new nuclear weapon. If so, the Congressional Research Service warns that the 5-year cost is far from the total price tag for this program.

It is impossible to provide an estimate of total program cost because of the difficulty of the task at hand.

The current nuclear earth penetrator, the B61–11, can penetrate only to 20 feet in dry earth. According to physicist Rob Nelson from Princeton University, even an extremely small bunker buster with a yield of one-tenth of a kiloton must penetrate 140 feet underground to be contained. It is hard to imagine the technical feat required to penetrate into hardened targets to the depth necessary to prevent massive fallout from a nuclear weapon with the RNEP's yield, which is said to be far in excess of 5 kilotons. In fact, preventing the spread of fallout from an RNEP is impossible—and tens of thousands or hundreds of thousands of casualties could result from the nuclear fallout from such a weapon.

U.S. nuclear tests from the 1960s and 1970s illustrate the point. The 1962 ''Sedan'' test exploded a 100-kiloton weapon 635 feet underground. It produced a gigantic cloud of fallout and left a crater a quarter mile in diameter. To destroy a deeply buried target, an even larger weapon would be needed—and an RNEP would be lucky to penetrate more than 50 feet underground. The fallout would be immense.

The bill before us also includes $9 million for the Advanced Concept Initiative that could lead to the development of new nuclear weapons, including low-yield nuclear weapons.

This program raises further concerns: Will the new weapons require a resumption of nuclear testing, leading others to test as well? Will the new weapons erode the current gap between nuclear and conventional weapons, which helps to make nuclear war ''unthinkable'' and to deter other countries from developing such weapons?

The Robust Nuclear Earth Penetrator and low-yield nuclear weapons are not like regular nuclear weapons. Regular nuclear weapons are designed to deter an adversary; the massive destruction and civilian casualties they cause make nuclear weapons unlike even other weapons of mass destruction, with the possible exception of smallpox. But these nuclear weapons are different. They bridge the gap between conventional weapons and the city-busting weapons of the cold war. They offer the lure of a better way to destroy point targets.

Supporters of new nuclear weapons argue that they, too, could deter an adversary, and that is true. All nuclear weapons have a deterrent function. But the deterrence benefits that low-yield weapons provide are far outweighed by both the risk that they will actually be used and the dangerous signal that they send to other countries—whether intentionally or not—that we intend to fight nuclear wars.

These nuclear weapons blur the distinction between nuclear and conventional war. They begin to make nuclear war more ''thinkable,'' as Herman Kahn might have said. But Herman Kahn's book was ''Thinking About the Unthinkable.'' He understood that nuclear war was unthinkable, even as he demanded that we think about how to fight one if we had to. Looking at the foreign and defense policies of the current administration, I fear that they have failed to understand that vital point. They want to make nuclear war ''thinkable.''

And that failure of understanding could lead to bigger failures: a failure to understand how to keep other countries from developing nuclear weapons; a failure to view nonproliferation as a vital and workable policy objective; and perhaps even a failure to avoid a nuclear war, which would do horrible damage to our country.

Building bunker busters and low-yield nuclear weapons is not a path to non-proliferation. Neither is a program to do R&D on such weapons, while Defense Department officials press our scientists to come up with reasons to build them.

Neither is a program to test those weapons—which would surely be necessary to develop new low-yield weapons; and which would just as surely be the death knell not only of the Comprehensive Test-Ban Treaty, but also of the Nuclear Non-Proliferation Treaty.

Consider what the administration has said regarding nuclear weapons: The Nuclear Posture Review of December 2001 spoke of reducing U.S. reliance upon nuclear weapons. But it also reportedly listed not only Russia and China, but also North Korea, Iraq, Iran, Syria, and Libya as potential enemies in a nuclear war.

It spoke of possibly needing to develop and test new types of nuclear weapons, gave that as a reason for increasing our nuclear test readiness, and said that nuclear weapons might be used to neutralize chemical or biological agents. And in the run-up to the Iraq war, the administration proclaimed a doctrine of preemption against any potential foe that acquired weapons of mass destruction.

Now, if you were a North Korean leader, or an Iranian or Syrian one, which part of those reports would you act on? The part that reduces reliance on nuclear weapons? Or the part that names you as a possible target for nuclear preemption?

So far, we have one positive answer—from Libya, which is giving up its WMD program.

But from North Korea and Iran, the response is much more disturbing. The Washington Post reported last month that a new National Intelligence Estimate would likely conclude that North Korea has approximately eight nuclear bombs, instead of two; and that its secret uranium enrichment program would be operational by 2007 and produce enough weapons-grade uranium for another six bombs per year. Iran was accelerating its nuclear weapons program, when disclosures and IAEA inspections exposed it and disrupted Iran's efforts. It pursued two means of uranium enrichment—centrifuges and lasers—and experimented with separating plutonium.

Even countries that are our friends and allies worry about—and react to—these U.S. policies. Just last week, Brazil's new Ambassador reiterated his country's intent to limit the access of the International Atomic Energy Agency to Brazil's uranium enrichment plant. One rationale he used was Brazil's unhappiness that the Bush administration would consider using nuclear weapons against non-nuclear countries.

How shall we stem the spread of nuclear weapons? For a while, it seemed as though the administration's approach would be to declare war on every adversary that dared to go nuclear. But do we really intend to go to war with North Korea, if the price is the slaughter of hundreds of thousands of South Korean civilians? In fact, we appear now to be withdrawing half our ground combat forces from South Korea to send them to Iraq; and there are rumors that those forces will not return to Korea.

Do we intend to go to war with Iran, when we cannot guarantee security in Iraq? The list of countries that we accuse of having weapons of mass destruction is long. Will we take them all on? And what do we do when Indian officials cite our Iraq war arguments as justification for a possible attack on Pakistan that could risk a nuclear war? Is this the world we want?

Nobody ever said that nonproliferation was easy.

I don't have a silver bullet; and I don't expect the President to have one, either. But you have to keep your eye on the ball. When conservatives opposed the Comprehensive Test-Ban Treaty, they said that countries would build nuclear weapons for their own strategic reasons. That is right.

It means that if we want to prevent proliferation, or roll it back, we have to affect those strategic calculations. Nonproliferation policy gives us a framework for those efforts.

The Nuclear NonProliferation Treaty gives us international support, and affects the calculations of countries whose neighbors sign and obey the treaty. The Nuclear Suppliers Group buys more time, by restricting exports of nuclear or dual-use materials and equipment. But in the end, it still comes down to other countries' strategic calculations.

For lasting nonproliferation, we must treat the regional quarrels that

drive countries to seek nuclear weapons. We were able to do that with Argentina and Brazil. As South Africa moved away from apartheid, we were able to do that there, as well. We are making a real effort to help India and Pakistan step back from the brink, and we must continue that effort. But we also have to address security concerns in East Asia, including North Korea's concerns, if we are to keep that whole region from developing nuclear weapons. And we have to pursue peace in the Middle East.

Nor is there really an alternative to working with the international community.

We don't have the ability to inspect sites in Iran; the International Atomic Energy Agency does have that ability. Its inspections have revealed much about the extent of Iran's nuclear program and have made it harder for Iran to pursue that program.

We cannot close down proliferation traffic all by ourselves. The case of North Korea shows how much we need the help of other countries. The cooperation of other countries, especially including Russia and China, is essential. That is why the Proliferation Security Initiative is so important, as is our adherence to international law in implementing that initiative.

Those are the paths to nonproliferation. They are long and difficult paths, and we do not know whether we will succeed. But we can see where we want to go, and we can see how working those issues will help get us there.

Building a new generation of nuclear weapons will only take us on the opposite path. So I urge my colleagues to support the Kennedy-Feinstein amendment to prohibit funding for those counterproductive weapons.

Mr. LAUTENBERG. Mr. President, I rise today to discuss a critical national security amendment that I have cosponsored. I commend the leadership of Senator KENNEDY and FEINSTEIN and I join them today in offering an amendment that will eliminate funds in this year's budget for research and development on nuclear bunker buster. This amendment also deletes funding for the advanced concepts programs—money authorized for research on small nuclear weapons.

Mr. President, I am disappointed that this administration has requested these programs for this year's Department of Energy Budget. First and foremost, the development of these new weapons are not needed; the U.S. already has 6,000 deployed nuclear weapons. But most importantly, a U.S. decision to proceed with a new generation of nuclear weapons will undercut international non-proliferation efforts and undermine the United States' credibility on global security.

We are currently facing a new type of national security challenge; our greatest goal is to prevent the nexus of terrorists and weapons of mass destruction. As such, it is imperative that this country's defense and foreign policy reflect a firm commitment to every aspect of non-proliferation and arms control. Destroying and preventing the spread of current nuclear warheads remains a critical component of this commitment. So too is preventing the development of new types of nuclear weapons and materials, however small they might be and however limited their use.

We invaded Iraq to change a regime that we were told posed an imminent threat to global security. The administration assured us that not only had Saddam amassed an arsenal of biological and chemical weapons, but he was also actively pursuing nuclear weapons as well. We have so far lost 840 American men and women in this effort but have yet to uncover traces of WMD programs in Iraq. I find it truly bizarre and hypocritical that the administration would plan to build new types of nuclear weapons at the same time it pursues military operations abroad with the purported objective of destroying similar materials.

In our global war on terror, the last thing we need is more nuclear weapons. What we need are more troops on the ground protecting Iraqis and providing stability. What we need is better intelligence and law enforcement and enhanced efforts to collaborate with our allies on both priorities.

Instead, the administration has decided that researching and developing new types of nuclear weapons is a priority. How we can credibly ask North Korea and Iran to stop their own nuclear programs while at the same time we develop mini nukes and bunker busters?

Let me respond to three points the administration makes in support of its dangerous nuclear requests:

First, the administration says the Pentagon must study bunker busters for the war on terrorism; only the Robust Nuclear Earth Penetrator (RNEP), it claims, could be used against suspected underground bunkers containing weapons of mass destruction. They say our amendment will tie the Pentagon's hands in the war on terrorism. This is not true. The administration's scenario in which the new nuclear explosives are used against suspected underground bunkers containing biological, chemical or nuclear weapons is highly improbable. Our intelligence about the location of WMD materials is not precise enough to destroy it this way. Just imagine launching nuclear bunker busters based on weapons intelligence as unreliable as that circulating before the Iraq war. Even if underground sites were accurately identified, the resulting nuclear explosions could spread the blast, radiation, and toxins over populated areas.

Moreover, current conventional weapons in our arsenal can destroy these materials. And if we really care about the threat of WMD, then the proposed research money ought to be going to fund better weapons intelligence and improved conventional methods for putting these WMD sites out of commission, like blocking air intakes and external energy sources.

Second, administration officials claim that the bunker buster funding and the mini nuke funding is just for feasibility studies and research and development, not for use. They claim that we are opposing the important scientific advances involved in researching these weapons.

With nuclear weapons, any materials researched and developed must be tested. You cannot understand the physics of nuclear weapons without tests. Currently, the U.S. is a signatory of the Comprehensive Test Ban Treaty, which prohibits testing nuclear weapons. If we test our new weapons, even at an early non-useable stage of development, we are immediately breaking this treaty and inviting other countries that are signatories to break this treaty as well.

Finally, the proponents of the nuclear funding say that the administration's request only deals with a small amount of money—$9 million for the mini nukes and around $30 million for the bunker busters. Relative to a Defense Budget for 2005 projected to surpass $440 billion dollars, they say that the sum in question—the sum our amendment will delete—is insignificant.

This is also patently wrong. First, the Fiscal Year 2005 budget contains $9 million for mini nukes, which is a 50 percent increase from last year's request. What's more important is not the sum, but the intent. The administration has made it clear that it wants this money to create—-and I quote the Pentagon ''a more useable'' nuclear weapon. This funding, however small, sends a dangerous message to other members of the nine country nuclear club that the U.S. is intending to use our nuclear arsenal.

Second, with the bunker buster, in May 2003, Secretary Rumsfeld said that the Robust Nuclear Earth Penetarato program ''is a study. It is nothing more and nothing less.'' This study was planned to cost $15 million for fiscal years 2003–2005. Yet this year, the Administration requested $27.6 million for the study, and suddenly revealed that it planned to spend $485 million over the next five years. That is not insignificant at all.

I just returned from attending a celebration of the 60th anniversary of D-Day in Normandy, France. The most important military and political lesson learned from the D-Day battles was the necessity of international cooperation. I believe that this great example of multi-lateral cooperation should be remembered and applied to current events, in Iraq and elsewhere. The world watched in awe as young, dedicated soldiers from several countries fought side by side on those beaches and cliffs that launched the events that would rid the world of fascism.

Today, the administration's unilateral foreign policy and marginalization

of the United Nations has fractured this alliance of democracies. Our relations with Europe are tense and our public standing in the world an all-time low. I believe that funding nuclear weapons in this year's budget will only provoke further antagonism between the United States and our allies.

I urge my colleagues to support the Kennedy-Feinstein amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe I have 10 minutes allocated to me.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Mr. President, I very much support the pending amendment because I believe if this country is going to have any credibility in our argument that countries such as Iran should not be allowed to obtain nuclear weapons, we ourselves must reduce our own reliance on nuclear weapons and not move in the direction of new nuclear weapons.

We undermine our position when we put money into a budget which says we are going to start doing and continue research on new types of weapons and on advanced concepts for nuclear weapons, when we have been a party to a treaty called the Nuclear Non-Proliferation Treaty, which says:

> Each of the Parties to the Treaty—

That includes us—

> undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty of general and complete disarmament under strict and effective international control.

We have told the Indians, we have told the Pakistanis: Do not move down that nuclear road.

We have told the Iranians: We are not going to let you go down that nuclear road. We are going to take actions to prevent you from acquiring nuclear weapons. This is at the same time this administration is moving this country toward additional reliance on nuclear weapons, new types of nuclear weapons, and new uses for nuclear weapons.

It is totally inconsistent for us to be moving in the direction we talk about when it comes to other countries but in the direction that we literally live out when we come to our own activity. Too often this country has been portrayed as saying that the rules that apply to everybody else do not apply to us. We have seen too much evidence of that approach recently. It has dramatically weakened our position in this world and strengthened the terrorists' position when we say we are not governed by the same rules by which everybody else is governed. There is a nonproliferation treaty out there, Iran. You are a member of that treaty, and you have to live up to it.

Now, of course, Iran can pull out of that treaty. They can withdraw from that treaty, too, just as we withdrew from the ABM Treaty. But they are a member of that nonproliferation regime now. So we tell them: You have to live up to that regime. We are not going to sit by and allow you to get nuclear weapons.

That is what we say over here. But over here we put millions of dollars into doing research on new types of nuclear weapons and new uses for nuclear weapons which already are in the inventory.

This is a grave danger to us. We undermine our own security when we talk out of the right side of our mouth when it comes to what other people can do, and out of the left side of our mouth when it comes to our own activity.

The effort to move toward more usable nuclear weapons is what this argument is all about. This is what Administrator Brooks talked about in answer to a question by Senator REED, when he says:

> And I accept Senator Reed's point that . . . I have a bias in favor of things that might be usable.

Here is the Administrator of the National Nuclear Security Administration talking about that we have to move toward more usable nuclear weapons. And why do we need these weapons? We are told because there are underground bunkers that might be the targets, and that those bunkers might not be reachable except through nuclear weapons.

Can we just imagine having dropped nuclear weapons going after Saddam Hussein? We had this intelligence that said he was in an underground bunker. And that underground bunker, we were told, was something we could hit with a conventional weapon at the time. It was one of, apparently, 50 airstrikes that we used against the high-value targets in Iraq, including Saddam Hussein and his sons.

Well, according to the press, there were about 50 of those airstrikes. Not one of them was successful. It turns out there apparently was not even a bunker at the one we were sure Saddam Hussein was in. But if there was a bunker, he was not in it. According to this report in the New York Times of June 13, a Central Intelligence Agency officer reported that Hussein was in that underground bunker at that site. So we went after him. We directed the airstrikes against that bunker.

But then, after the main part of this war was over, we went and inspected where we had struck based on intelligence that there was an underground bunker containing Saddam Hussein. And lo and behold, not only wasn't there Saddam Hussein—we knew that already—but there wasn't even a bunker at the location.

And the suggestion that we are going to design nuclear weapons to go after bunkers, despite the huge result in terms of human loss when nuclear weapons are used, assumes we have intelligence which is so reliable that we can, with great certainty, reach a leader who otherwise would not be reachable with conventional weapons. If anything has been demonstrated recently during this Iraq war, it is that our intelligence is not only not particularly accurate but it is wildly inaccurate at times.

The idea that we project to the world that we are going to design nuclear weapons to go after bunkers—nuclear weapons which have yields which will kill tens of thousands of people if they succeed with their low yield—it seems to me is not only a message which undercuts our position against proliferation and our position in support of the nonproliferation treaty but a message which totally weakens us, which opens us up to the attacks of the terrorists who would kill us, that the United States lives by one set of rules when it comes to its own activities at the same time it wants to apply another set of rules to the rest of the world.

The administration's Defense Science Board, last year, called for a strategic redirection of the stockpile stewardship priorities in favor of nuclear weapons that previously had not been provided for and supported.

The legislative justification for the administration's position on this matter says we should be exploring weapons concepts that could offer greater capabilities for precision and earth penetration and weapons which are more ''relevant.'' More relevant nuclear weapons is what this is all about, relevant and usable nuclear weapons. A more relevant stockpile, according to their definition, will have reduced efficient yield.

But when you look at what the real yield is of these so-called reduced weapons, reduced yields, a 1-kiloton nuclear weapon detonated at a depth of 25 to 50 feet would eject more than 1 million cubic feet of radioactive debris into the air and leave a crater about the size of the World Trade Center. A 100-kiloton weapon that was detonated 635 feet below ground in Nevada formed a crater 320 feet deep and 1,200 feet in diameter. If a target were so deeply buried that a conventional weapon could not effectively harm a target, neither could a low-yield nuclear weapon. To successfully reach one of those targets would require a large yield and a large yield cannot be contained.

According to Sidney Drell, a noted physicist at Stanford University and a member of the NNSA advisory panel, a target buried at 1,000 feet would take a nuclear weapon with a yield greater than 100 kilotons to do any damage.

This body is again faced with a decision: Do we want to continue to walk down a road which we are urging and demanding that others not walk? The greatest fight we must wage is against proliferation of weapons of mass destruction that could reach the hands of terrorists.

The determination to develop new nukes and new uses for nuclear weapons undermines that fight. It weakens us in that fight and it makes us less secure in the war against terrorism.

I strongly urge that the pending amendment be adopted.

Mr. KENNEDY. Will the Senator yield?

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. There is 18 minutes on the Democratic side and 33 minutes on your side.

Mr. INHOFE. When are we scheduled to have our vote?

The PRESIDING OFFICER. At the conclusion of the use or yielding back of the time.

Mr. INHOFE. I see there are those wanting to be heard on the other side. Let me make a couple comments.

We are talking as if this is some program that we are putting together. This is a feasibility study. This is something to determine what the costs would be, what risks are out there, what the potential threat is that we could be guarding against. We are talking about a defensive system. I have heard all of the arguments.

Since we do have some time, I will let them use some of their time, and then I would like to respond so we can stay on schedule.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 15 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I am very happy to join with Senator KENNEDY in support of this amendment. I come at this from a passionate, moral point of view so my arguments are going to reflect that. We have been hearing for 2 years now that this is just a study. Yet the Congressional Research Service has shown in its reports that, in fact, it is much more than a study. This is the reopening of the nuclear door and the development of a new generation of nuclear weapons.

We, the strongest and most technologically proficient military on Earth now see fit to reopen that door and begin to study and develop a new generation of nuclear weapons: One, the robust nuclear earth penetrator, a 100-kiloton bunker buster, which at present cannot be developed to drive deeply enough into the ground to prevent the spewing of massive amounts of radioactive debris; two, something called advanced concepts initiative, which is the development of low-yield nuclear weapons, under 5 kilotons, to be used as strategic battlefield nuclear weapons; and three, the development of a plutonium pit facility with enough capacity to create up to 450 plutonium pits per year, which are the trigger devices in a nuclear weapon.

I strongly believe that to proceed on this path is folly because by doing so we are encouraging the very nuclear proliferation we are seeking to prevent. In other words, we are telling other countries, don't do what we do, do what we say. We are practicing the ultimate hypocrisy. And there is now emerging evidence that others are going to follow this course.

When I stood on the floor last week, I mentioned the report that India is beginning the development of battlefield nuclear weapons. You can be sure Pakistan will follow. We also know Brazil is looking at that opportunity as well. In April of this year, Brazil refused to allow IAEA, the International Atomic Energy Agency, inspectors to examine a uranium enrichment facility under construction. They insisted that the facility will only produce low-enriched uranium, which is legal under the Nuclear Nonproliferation Treaty, so long as it is safeguarded. They also refused to fully cooperate with the IAEA's investigation into the nuclear black market operated by Pakistani scientist A.Q. Kahn.

These are all the signs. We saw them in North Korea as well. Brazil appears to be rebelling against what it perceives to be a double standard in the global nuclear proliferation regime. It views President Bush's proposals, which significantly curtail the sharing of potentially peaceful nuclear technology, as a radical departure from the standards agreed to under the NPT. I am quoting from a statement issued by the former Foreign Minister of Great Britain, Robin Cook, and former Secretary of State Madeleine Albright in a document entitled "A Nuclear Nonproliferation Strategy for the 21st Century." We know that other countries follow the example of the United States. Why are we doing this?

There is good news. Last week the House Appropriations Subcommittee on Energy and Water eliminated all funding for these programs, everything—for the pit facility, for the advanced weapons concepts, and for the nuclear bunker buster. That was a wise decision. I believe the action of the House is a reflection of the growing bipartisan concerns that I know many of my colleagues share about this administration's nuclear weapons programs. That is why the Senator from Massachusetts and I and the Senator from Michigan and others have offered our amendment to eliminate funds for programs to develop new nuclear weapons capabilities, including the robust nuclear earth penetrator.

This administration continues to argue that no new weapons production is currently planned. But again, the facts belie this statement.

Ambassador Linton Brooks, head of the National Nuclear Security Administration, stated in a recent interview that it is important, in his view, to maintain a manufacturing and scientific base so that the United States can meet the goal of "being able to design, develop, and begin production of a new warhead within 3 to 4 years of a decision to enter engineering development."

That is the ball game—the development of a new warhead. It is not just a study; it is development.

I mentioned the Congressional Research Service report. I was staggered when I saw that it concluded that the administration's long-term budget plans, including $485 million for the robust nuclear earth penetrator between 2005 and 2009, casts doubt on the contention that the studies of a new nuclear weapon are, in fact, just studies. Why would the administration be including $485 million in future funds in its long-term budget for a robust nuclear earth penetrator if it was just a study? The fact is, they would not. The study doesn't cost $485 million. The answer is that they are planning to go into the engineering and the development phases.

What I find most troubling with the administration's approach is the suggestion that we can make nuclear weapons more usable.

I strongly believe it must be a central tenet of the U.S. national security policy to do everything at our disposal to make nuclear weapons less desirable, less available, and less likely to be used.

According to press reports, the 2001 Nuclear Posture Review cited the need to develop a new generation of nuclear weapons and suggested a "new triad" which blurred the lines between conventional and nuclear forces. I keep mentioning that because this paper is often postulated as a throwaway—don't pay attention to it—but it is a very important statement of administration policy.

As early as 2001, this administration was creating a new triad of strategic forces, and one part of that would be the nuclear triad—in other words, the creation of new weapons that could be used along with conventional weapons.

This document also names seven countries—not all of them possessing nuclear weapons—against which we would consider launching a nuclear first strike.

So this new triad, with its emphasis on the offensive capability of these weapons—even in first-strike scenarios—represents a radical and dangerous departure from the idea that our strategic nuclear forces are primarily intended for deterrence. This is significant. We have always looked at our nuclear arsenal as a deterrent arsenal. This is now changing to an offensive arsenal. If you think about how the robust nuclear earth penetrator would be used, how low-yield nuclear weapons would be used, they would not be used in a defensive posture; they would be used as part of an offensive thrust.

A recent report of the Pentagon's Defense Sciences Board argues that "nuclear weapons are needed that produce much lower collateral damage," precisely so these weapons can be more "usable" and integrated into war-fighting plans.

Now, the problem in all of this is that there is no such thing as a "clean"

or usable nuclear bomb. A lot of studies have been done.

A leader in this effort is Dr. Sidney Drell, a physics professor at Stanford University. He points out how the effects of a small bomb would be dramatic. A 1-kiloton nuclear weapon detonated 20 to 50 feet underground would dig a crater the size of Ground Zero in New York and eject 1 million cubic feet of radioactive debris into the air.

The depth of penetration of the robust nuclear earth penetrator is limited by the strength of the missile casing. The deepest our current earth penetrator can burrow is 20 to 35 feet of dry earth.

Casing made of even the strongest material cannot withstand the physical force of burrowing through 100 feet of granite to reach a hard or deeply buried target—much less the 800 feet needed to contain the nuclear blast.

So if a nuclear bunker buster were able to burrow into the earth to reach its maximum feasible penetration depth of 35 feet, it would not be able to be deep enough to contain even a bomb with an explosive yield of only 0.2 kilotons, let alone a 100-kiloton bomb like the robust nuclear earth penetrator.

So given the insurmountable physics problems associated with burrowing a warhead deep into the earth, destroying a target hidden beneath 1,000 feet into rock will require a nuclear weapon of at least 100 kilotons. So anything short of 800 feet will not contain a fallout. A fireball will break through the surface, scattering enormous amounts of radioactive debris—1.5 million tons for a 100-kiloton bomb—into the atmosphere. Is that what we want to be doing as a Nation?

The 1962 Sedan nuclear test at the Nevada Test Site illustrates the enormous destructive effects of a 100-kiloton nuclear blast detonated 635 feet below the surface of the Earth—far deeper than any robust nuclear earth penetrator can be engineered to go. The radioactive cloud it produced continued to rise as debris settled back to Earth, and the base surge of the explosion rolled over the desert. Even at 635 feet below the ground, the blast could not be contained.

On the floor of the Senate last week, my friend, the distinguished Senator from Arizona, Mr. KYL, argued that because conventional earth-penetrating munitions failed to knock out Saddam Hussein in his underground bunker on the eve of the Iraq war, ''only nuclear weapons can address the deeply buried targets that are protected by man-made, or even hard geology.''

I usually, on security matters, agree with my friend. But consider the implications of this statement. If we had used a nuclear earth penetrator, we might have killed Saddam Hussein—that is, assuming we had the right location in the first place, and clearly our intelligence was not right—but at the same time the United States would have used a nuclear weapon against a nonnuclear weapon state, detonating it in the middle of a city of 5 million people. Would leveling Baghdad have been the right way to liberate an oppressed people from a brutal dictator? Of course not.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I have one sentence before yielding to the Senator from New Mexico. This is a feasibility study. That is all it is. You can keep saying over and over that it is more, but it is not. In the 5-year plan, which says in the event the feasibility study recommends it, and in the event the President recommends it, in the event we authorize it in both the House and Senate, then you can go forward with it. Right now, it is a feasibility study.

With that, I yield the floor.

Mr. WARNER. Mr. President, at the conclusion of the remarks of our distinguished colleague from New Mexico, I ask unanimous consent that the Senator from Virginia be recognized for about 6 or 7 minutes for the purpose of a colloquy with the Senator from Utah.

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

Mr. INHOFE. I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank Senator INHOFE for the opportunity to speak.

The Feinstein-Kennedy amendment would prevent the NNSA from studying alternative technologies for our nuclear stockpile. It would also prevent the NNSA and DOD from studying earth-penetrating capability, which many military experts believe is an area where our existing arsenal does not provide sufficient deterrence.

The robust nuclear earth penetrator is a study to determine how or if the existing B–61 and existing B–83—those are the names of nuclear weapons—might be modified to provide an added capability of underground penetration. At present, our military is unable to provide credible deterrence against deeply buried targets.

Included in the President's fiscal year 2005 budget is $27.6 million in funding to undertake a feasibility study for the RNEP. With this research—and I stress research—we may be able to solve the complex engineering challenges and identify capabilities for both nuclear and conventional weapons to address the evolving tactical challenges. This is research not intended to replace any conventional weapon. It would only serve to transition from relying on large megaton city busters with more precise weapons, also providing funding for the NNSA to evaluate modification to existing weapons. It does not imply a commitment to build these weapons. Section 3117 of the Defense Authorization Act of 2004 requires that specific congressional authorization be obtained to move beyond a feasibility study. That has not been repealed and has not been changed.

Last year, the Energy and Water appropriations bill contained language that prevents the NNSA and the Department of Defense from moving beyond a feasibility study without congressional approval. I am the chairman of that committee, and I intend to include similar language again this year.

The Advanced Concepts Initiative will examine emerging or alternative technologies that could provide this country with an improved nuclear deterrence.

In 2001, the Nuclear Posture Review suggested that we should keep our nuclear scientists engaged and thinking about what the nuclear stockpile of the future should look like. By denying our scientists the opportunity to investigate this technology and the options for our stockpile, we will also neglect critical research into improving the safety, reliability, and security of the existing aging stockpile. It makes absolutely no sense to ignore technology and innovation when it comes to nuclear security and deterrence. I guarantee other countries are not limiting themselves to what they know today but are focusing on new possibilities for tomorrow.

This is not an attempt to build brand-new weapons and add to the stockpile. I am very supportive of reducing the number of weapons we have deployed, and I support the President's recently announced efforts to take a dramatic step in that direction. I support a much smaller, more flexible stockpile that can respond to a variety of threats in the post-cold-war era.

Last year, the Appropriations Energy and Water Development Subcommittee included a requirement that the President send to Congress a nuclear stockpile report that underlines the size of the stockpile of the future. This classified report is complete and defines the size and mission of our future stockpile. It goes beyond reductions contemplated by the Clinton administration. The plan proposed by the President would reduce the number of deployed weapons to levels consistent with the Moscow Treaty and its lowest level in several decades.

But even with these reductions, we must constantly adapt to provide a credible deterrence to the post-cold-war era. It is not realistic to think we can put the nuclear genie back into the bottle. We cannot hope that if we ignore the evolving nuclear threat that it will go away. History tells us a different story.

Despite the U.S. adopting a testing moratorium, several countries, including France, India, and Pakistan have tested weapons. Countries such as Libya, Iran, and North Korea have ignored international pressure to stop the development of a nuclear capability.

The fact is, countries will pursue what is in their sovereign best interests, and the U.S. should not believe

that we are in any different position. It is in our Nation's best interest to ensure that our weapons serve as a credible deterrent to a wide range of threats.

I remain hopeful that we will only use our stockpile as a deterrent to other nuclear states. However, to be an effective deterrent, it must evolve to address the changing threats. We also must maintain a group of experts at our national labs that understand the complex science to support the engineering and physics to ensure our stockpile is a viable deterrent and is safely stored at home.

To ensure we have an effective deterrent, we are doing the following:

We are maintaining our nuclear deterrent. That sends a clear and convincing signal to our allies and our enemies that our nuclear capability is sufficient to deter most threats.

We are maintaining our test readiness that allows us to hedge against the possibility that we may someday need to conduct a test to confirm a problem or verify that we resolved a problem within the stockpile.

We are using the RNEP study to examine whether or not existing weapons could be adapted to improve our ability to hold at risk deeply buried facilities that our enemies occupy.

We are challenging our scientists to think of a wide variety of options and face challenges to ensure that our nuclear deterrent is flexible and responsive to evolving threats. Failure to challenge our physicists and engineers will limit our capabilities in the future.

It is disingenuous of our opponents to argue that these policies put us on an irreversible course of new weapons development. Nothing could be further from the truth. Congress has the ultimate responsibility in determining whether or not to proceed with full-scale development.

I urge my colleagues to oppose this shortsighted amendment that would prevent our weapons scientists from investigating the best available options. This research is critical to ensuring this country has an effective and safe stockpile that will serve as a credible deterrent to all existing and potential threats.

I hope that in the process of discussing this issue, we will arrive at a conclusion that makes it eminently clear that the statement I have made regarding the 1-year feasibility study will be what we are talking about and what we will adopt.

I thank the Senator. I yield the floor.

Mr. INHOFE. Mr. President, may I inquire as to the time remaining?

The PRESIDING OFFICER. The Senator has 26 minutes.

Mr. INHOFE. And the other side?

The PRESIDING OFFICER. There is 3 minutes.

Mr. INHOFE. Under our unanimous consent agreement, we will recognize the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, our distinguished colleague from Utah wishes to have a colloquy with me. The colloquy represents a number of days of careful deliberations on a point and issue in last year's bill which is of great importance to him. I will follow my colleague after he makes his remarks.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I intend to oppose the Kennedy-Feinstein amendment even though I am sympathetic with many of the arguments they make. I am in agreement with the idea that this is a feasibility study only and that the study should go forward, but my primary concern is that there be no nuclear testing of this particular device or any aspect of this particular device while the study is going on.

It is my understanding that is part of the law accepted previously, but I want to make it absolutely sure. For that purpose, I intend, following this vote, some time during the debate, to call up my amendment which makes it clear that there can be no nuclear testing under the cover of a study of the RNEP as it is so called. That amendment is offered not only for myself and my colleague from Utah, Senator HATCH, but we are joined by Senator COLLINS of Maine and Senator DOMENICI of New Mexico.

I wish to make it clear that my goal is to see to it that there be no nuclear testing in the name of the study unless there is a specific congressional vote with respect to that testing. I do not believe it will be necessary, but if some future administration 5, 10, 15 years from now were to decide they needed to do some nuclear testing, that there was a compelling case to do that, I want that future administration to have to come to the Congress and make the compelling case to the Congress. My amendment goes in that direction with that as its goal.

Mr. WARNER. Mr. President, it is my understanding there are others who have associated with the Senator on this matter; am I not correct in that?

Mr. BENNETT. That is correct. As I said, Senator HATCH, Senator COLLINS, and Senator DOMENICI have cosponsored the amendment, and there are some others who indicated they will as well.

Mr. WARNER. Mr. President, I thank my colleague. I think the observations of the Senator from Utah, Mr. BENNETT, are important ones. I will work with my colleagues on the other side of the aisle to see if we cannot accept this amendment eventually because it, in all likelihood, clarifies the language that I put in the bill last year.

I think the amendment helps to clarify the intent of the language last year, which in its verbiage requires a specific authorization by Congress to proceed with the engineering development phase or subsequent phase of the robust nuclear earth penetrator and, in my view, that includes a full-scale underground nuclear test on the robust nuclear earth penetrator if such test, in the judgment of the technical community, is deemed necessary.

So I think the amendment can be helpful, and I will work with my distinguished colleagues on the other side, most specifically the ranking member, Senator LEVIN, to see whether we can adopt it.

I thank my colleague.

Mr. BENNETT. Mr. President, I thank the chairman for his courtesy and look forward to working with him and Senator LEVIN to see if we can indeed get this amendment adopted.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. At this point, I yield to the junior Senator from Texas for such time as he may consume.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I thank the Senator from Oklahoma for his courtesy in allowing me to speak briefly against this amendment which, as we have heard, prohibits any funding both for a feasibility study on the robust nuclear earth penetrator and for the advanced concepts initiative. My concern is the premise upon which this amendment is offered. If the events of the last decade have taught us anything, it is that weakness invites aggression by those who see that as an opportunity to terrorize or otherwise wreak havoc on innocent civilians in this country and elsewhere.

The concept that we should somehow prohibit important research—and this amendment would eliminate research because, of course, production is prohibited by current law—the suggestion and the logic, if there is any, that by somehow blinding ourselves to the threat and the means to overcome the threats that surround us in an ever dangerous world is beyond me. If we have learned anything in the last decade from the time of the bombing of the World Trade Center in 1993 to the bombing of our American embassies in Africa to the Khobar Towers incident to the bombing of the USS *Cole*, it is that weakness in the eyes of terrorists and rogue nations invites aggression.

I wonder from where the sense of moral equivalency comes that we often hear in this debate. There are those who have said time and again that if we are to try to reduce the proliferation of nuclear weapons around the world, how can America then conduct research on the robust nuclear earth penetrator and on those areas covered by the advanced concepts initiative? But I wonder if those who are making these statements truly believe America's research on such weapons systems to protect ourselves and to defend ourselves is somehow the equivalent of the actions of rogue states and terrorists. Moral equivalency is simply wrong.

There are those who suggest that somehow by conducting essential research into hardened weapons like the

robust earth nuclear penetrator, that may perhaps be able to protect our country and assist us in exposing hardened bunkers, which can contain command and control or perhaps even biological or other weapons of mass destruction research facilities, that we will start a new arms race. I detect a hint of perhaps the old cold war mentality that somehow they believe we will enter into some sort of arms race which will endanger the world.

The truth is, America, as a fraction of its GDP, spends more on defense than the next 20 nations in the world. We are the only superpower that exists in the world and there is no risk of an arms race such as we saw occur with the former Soviet Union. So this is merely a matter of allowing us to do the basic research into weapons that would allow us to protect ourselves against hardened and deeply buried targets where laboratories could store or produce weapons of mass destruction. We can conduct research on these weapons as a way to protect ourselves and indeed make America safer.

Finally, this amendment would eliminate the advanced concepts initiative. It is important to reiterate what that initiative will do. The initiative focuses on increasing the reliability, safety, and security of our existing nuclear weapons stockpile. It focuses on assessing the capabilities of our adversaries to ensure we avoid a technological surprise. It focuses on thinking up innovative methods for countering our adversaries' weapons of mass destruction and developing weapons systems requirements, and it focuses on evaluating concepts to meet future military requirements.

I fail to see the wisdom of our willingness to blind ourselves to emerging threats in a very dangerous world. As I say, our weakness, our willingness to disarm ourselves and blind ourselves to the danger that surrounds us is an invitation to those who see that as a means for them to use terrorism to accomplish their political goals in this world in which we live.

I urge my colleagues to oppose the amendment today. I thank the manager of the bill for this time and I yield back any remaining time to him.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I understand the other side has 3 minutes remaining, and I think the Senator from Massachusetts wants to wind up. It would be our intention to yield back our time unless somebody comes to the floor who has not been heard. So at this point I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Finally, Mr. President, my friend from Texas does not state our amendment correctly. We are only dealing with the mini nuke and the bunker buster, not the safety of the stockpile or the study of information that happens in other countries. The fact of the matter is, this administration does have a plan for the development of the bunker buster and the small nuclear weapon. There is no doubt about it. It says so in its Nuclear Posture Review.

It puts in motion a major change in our approach to the role of nuclear offensive forces in our deterrent strategy and presents a blueprint for transforming our strategic posture. That is the beginning of a new arms race.

It is not what I say; it is in their budget request that goes on for 5 or 7 years and asks for $485 million for the bunker buster and $84 million for the small nukes. That is what the administration basically wants. This is what their principal responsible officials in the administration have said.

Linton Brooks:

> I have a bias in favor of things that might be usable. I think that's just an inherent part of deterrence.

Fred Celec, former deputy assistant to the Secretary of Defense: If a hydrogen bomb can be successfully designed to survive a crash through hard rock or concrete and still explode, ''It will ultimately get fielded.''

There it is. That is what we are dealing with. We believe, if we go this route, it is going to make it more difficult to achieve arms control in the area of nuclear arms. It is going to make our goals harder to realize and make the possibility of nuclear war more likely.

Interestingly, the House of Representatives, in their conclusions on this same issue, provides no funds for advanced concepts research and the robust nuclear earth penetrator. Our bill does provide a significant increase in weapons dismantlement, and for security upgrades in the weapons complex for nuclear nonproliferation, the committee provides the request for $1.3 billion. We spend the resources on other high-priority nonproliferation needs.

That is the conclusion of the Republican House of Representatives. They seem to get it.

Rather than start into a new arms race with nuclear weapons, let us accept our amendment and rely on what we have relied on, which the Secretary of State, former Chairman of the Joint Chiefs of Staff, Colin Powell, recognized—that these were not small nukes and were not battlefield weapons. They did not have a place in our military. That is what the former Chairman of the Joint Chiefs of Staff said. No one is suggesting that he hasn't had a life and career in terms of security of this country.

We have the best in terms of conventional forces. Why go ahead and see nuclear proliferation in terms of weapons that will create increased dangers for the American people?

I yield the remaining time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is our intention to yield our time. However, I repeat: This is a feasibility study. It is nothing more than that. You can quote all these other people whose opinion is we should have this. It doesn't make any difference. If the feasibility study says we should go into R&D and production, we can do that. If the 5-year plan says they come up with that recommendation, we can do that. But, first, the feasibility study would have to be done. Then the President would have to make a request, and both Houses of Congress would have to authorize it. This is just a feasibility study. We voted on this last year. I have sent for the vote. We will have it down here to remind people how they voted. Nothing has changed.

I yield the remainder of our time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous cosent that the order for the quroum call be dispensed with.

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

Mr. WARNER. Mr. President, I think we have had a very good debate. I thank colleagues on both sides of the aisle for participating in the debate this morning—the Senator from Oklahoma, Mr. INHOFE; Senator ALLARD; the Senator from Texas; and many of us.

While the vote had been scheduled for a little later to accommodate the needs of several Senators, I ask the desk to recognize that all time has been yielded.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER. Therefore, if it is agreeable with my colleague from Michigan, we will have a vote.

Mr. LEVIN. Mr. President, we have no objection. However, there may be some Senators who relied on this vote starting later, and we ought to accommodate them and keep the vote open a little longer.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote ''yea.''

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

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—42

Akaka	Dayton	Lautenberg
Baucus	Dodd	Levin
Biden	Dorgan	Lieberman
Bingaman	Durbin	Lincoln
Boxer	Edwards	Mikulski
Breaux	Feingold	Murray
Byrd	Feinstein	Pryor
Cantwell	Graham (FL)	Reed
Carper	Harkin	Reid
Chafee	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden

NAYS—55

Alexander	Domenici	Murkowski
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Bayh	Fitzgerald	Nickles
Bennett	Frist	Roberts
Bond	Graham (SC)	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith
Campbell	Hatch	Snowe
Chambliss	Hollings	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Kyl	Talent
Cornyn	Lott	Thomas
Craig	Lugar	Voinovich
Crapo	McCain	Warner
DeWine	McConnell	
Dole	Miller	

NOT VOTING—3

Jeffords	Kerry	Leahy

The amendment (No. 3263) was rejected.

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

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. WARNER. Mr. President, I thank the Senator from Colorado and all others who participated in what I felt was one of the better debates we have had in some time on a very serious issue. I commend the Senator from Massachusetts and others for the manner in which we conducted the debate.

Mr. President, I will now propound a unanimous consent request.

I ask unanimous consent that the time from 2:15 to 3:40 be equally divided between the opponents and proponents of the Smith amendment No. 3183; provided further, that at 3:40, the Senate proceed to executive session for the consideration en bloc of the following nominations: Virginia Hopkins, Ricardo Martinez, and Gene Pratter.

I further ask unanimous consent that there be 20 minutes of debate equally divided between the chairman and ranking member of the Judiciary Committee, or their designees, and that at 4 o'clock today the Senate proceed to a vote in relation to the Smith amendment No. 3183, with no amendments in order to the amendment prior to the vote.

I further ask that following that vote, the Senate then proceed to consecutive votes on the confirmation of Executive Calendar Nos. 563, 564, and 566, with 2 minutes of debate equally divided prior to each vote. I finally ask that following these votes, the President be immediately notified of the Senate's action and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, following this series of votes, we will return to the Defense bill. At that time, there has been an agreement—at least it is my understanding that a Crapo amendment will be laid down.

Mr. WARNER. Mr. President, that is correct.

Mr. REID. That amendment would be set aside and Senator CANTWELL would lay down an amendment, and we will do our best to work out a time to vote on those amendments.

Mr. WARNER. The Senator is correct.

Mr. REID. Following the offering of the Cantwell amendment, the next one in order is the amendment by Senator DURBIN on our side, so people understand that.

Mr. DODD. Mr. President, if I may inquire, we have a pending amendment. What is the plan for dealing with amendments that have been offered and set aside? Do we try to resolve these matters in negotiation, or is there a schedule by which we will vote on these?

Mr. WARNER. The issue I am familiar with is the one the Senator from Connecticut and I debated which has sections (a) and (b).

Mr. DODD. Correct, the contractors.

Mr. WARNER. Mr. President, did the Senator reach any conclusions as to whether he wants to amend his amendment?

Mr. DODD. We may very well. I have not had a chance to speak with staff. I will be happy to speak with them in the next hour.

Mr. WARNER. I am hoping we can act on that amendment.

Mr. LEVIN. If whoever has the floor will yield, I understand we have now received the documents. We received the documents which we sought from the Army. I have not read them yet, and I do not know if the Senator has had a chance to review them.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. REID. No objection.

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

Mr. WARNER. I thank the Presiding Officer. I think we will go to the standing order to place the Senate in recess.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m. today.

Thereupon, the Senate, at 1 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. Under the previous order, the time until 3:40 p.m. will be equally divided between the proponents and opponents on the Smith amendment.

Who yields time?

The Senator from Virginia.

AMENDMENT NO. 3183

Mr. WARNER. Mr. President, it is my understanding that the time is equally divided between the distinguished Senator from Oregon on this side and the Senator from Massachusetts on the other. Am I correct on that?

Mr. LEVIN. As I understand it, Mr. President, both are proponents of the amendment. I do not know who would be controlling the opponents' time. Is there opposition? If so, I wonder if the chairman knows who the opponents are who would be controlling the time.

Mr. WARNER. Mr. President, the distinguished Senator from Michigan does raise a valid point. I will provide the Senate with the individual that controls the opponents' time momentarily.

Mr. LEVIN. In terms of the proponents' time, I understand that will be divided between the Senator from Oregon and the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Oregon will control the time.

The Senator from Oregon.

Mr. SMITH. Mr. President, first may I express my appreciation to those who have agreed to this time agreement about an issue that is long overdue for our Senate to take up once again and to vote on its merits. This is the issue of hate crimes. This is an issue that is much in the news of late because it is an issue that too often is visited on the American people, or classes of Americans within the American community.

We are in the midst of a war on terror, and as we fight that war on terror abroad, it is important we not forget the war on terror at home. What Senator KENNEDY and I are trying to do in this bill is to simply remind the American people that there are classes of Americans who are uniquely vulnerable, who are singled out for violence, and for whom we need to do something.

It is a fact that hate crimes statutes are on the books of well over 30 States in America. They are even on the books of the U.S. Government. The Federal Government now has authority to pursue, prosecute, and punish those who commit hate crimes on the basis of race, religion, or national origin. What we are proposing to do in this bill is to add a few categories.

There is one category, one class of Americans that is the problem in this amendment, as some view it a problem, and that is the gay and lesbian community.

Now, many may wonder why we are bringing up this issue on a Defense authorization bill. And the answer is simply because some of the worst hate

crimes in recent memory have been committed in the U.S. military. It clearly is not unique to the American military because it happens all over the place, even in my State of Oregon, and notably, for example, in Texas with the death, murder, and dragging of James Byrd, and the savage beating of Matthew Shepard in Wyoming. But why the military bill? My answer is, why not? This is a bill that needs to move. It is important that we pass the defense authorization. It is important that we deal with this issue of domestic terrorism.

A hate crime is when someone with an ill-motive singles out an American citizen—or any person, but an America citizen—who, because of his sexual orientation, is hated and even killed. This happens way too often. In fact, if it happens at all, it is too often.

As I recounted yesterday in the case of several of our servicemen, a Navy man and an Army private were literally beaten to death. It is appropriate that we take up this issue on the Defense authorization bill.

Many of my colleagues will ask, Why are you trying to punish thought? I think it is important to recount that we are not punishing thought. We are not punishing speech. We are, in fact, punishing thought and speech that amounts to conduct, and that conduct then becomes criminal.

Many people say this is not appropriate to put in statute. We put it in statute a long time ago in the Federal Government. We did it in response to civil rights laws that were not being enforced in the Southern States—or a few of them. And the Federal Government needed to have some mechanism—some legal reach—to punish and pursue those who committed hateful things against the communities of African-American citizens. What this did was generate litigation when the Federal Government pursued it. It took the litigation all the way to the United States Supreme Court.

I think it is important that we recount that we are not going after anybody's hateful thinking or their hateful speaking but for the combination of those things—with hateful conduct which amounts to crime.

When this case came to the United States Supreme Court, you might have expected that conservatives would have struck it down. But it was an overwhelming vote by the United States Supreme Court, and the majority opinion affirming hate crimes as a category was written by none other than William Rehnquist, our current Chief Justice. It is hard to imagine a more conservative Justice. He made it very clear.

Citing the great Jurist William Blackstone, Rehnquist opined that ''it is reasonable that among crimes of different natures those should be most severely punished which are the most destructive of the public safety and happiness.''

Further, Rehnquist added:

> Deeply ingrained in our legal tradition is the idea that the more purposeful is the criminal conduct the more serious is the offense and, therefore, the more severely it ought to be punished.

Obviously, in the case of James Byrd, when his murderers were ultimately subject to the death penalty, you can't punish that any more severely. But what was different in that case, because it involved race, was the Federal Government had the statutory right to be there to back up and help to reinforce the State of Texas should they have needed it.

In the case of Matthew Shepard—in the case of Wyoming where there is no authorization for the Federal Government to help because our hate crimes do not include sexual orientation—the sheriff's office in Laramie—I met the sheriff, a good Republican—pled for this law. He said: We needed the help. It was a case of national importance, and we needed the backup of the Federal Government to manage all that happened around the pursuit and the prosecution and the punishment of Matthew Shepard's murderers.

But what is really important to emphasize—and some of my friends will come to the Senate floor and say we are punishing thought; we are infringing upon the first amendment because we are going after people because of what they speak. The answer, as Rehnquist and others have said, is, no, we are not. We only do it if they act upon it. When criminal conduct is more serious because it is so heinous with the evidence around it, you can even more severely punish that crime.

I think it is very important to hit on one other thing before I turn to my colleague, Senator KENNEDY.

Many people wonder why we would do this, why we would add this category.

My mother used to teach me to treat people the way they would like to be treated—not just the way I would like to be treated. I cannot think of a more Christian or decent thing to do than come to the aid of someone who is in physical peril, or to prosecute their case when they have been wronged, regardless of what you think of their life or lifestyle.

I believe the moral imperative that underpins hate crimes legislation is simply this, and it comes from sacred writ: When people are being stoned in the public square, we ought to come to their rescue. That includes the Federal Government, but that does not include the Federal Government according to our statutes today. What Senator KENNEDY and I propose to do would change that—- and change it for the good.

This is not about endorsing anyone's lifestyle. This is about protecting Americans in any class or category in which they may find themselves.

We need to do this. We need to pass this amendment. It is long overdue.

I understand the reluctance on the part of some of my colleagues because of their dislike of the entire category of hate crimes, but I disagree with them. I understand them, but I disagree with them because of this: The position, if you do not like hate crimes as a category and don't want to expand it to a new class of people, says you really have to then strike from our books the hate crimes protections for race, religion, and national origin. I don't think any of my colleagues would come down here and try to do that, particularly after those categories have been found constitutional across the street by the judicial branch of Government.

But I think, because you can demonstrate clearly the gay and lesbian community is demonstrably more vulnerable to crime because of their sexual orientation, we owe it to them as Americans—our American brothers and sisters—to add this extra measure of law and protection.

I urge my colleagues, I plead with them, to vote for this hate crimes legislation, known officially as the Local Law Enforcement Enhancement Act. It is symbolic, yes, but it can be substantive because the law can teach. The law is a good teacher, and the laws will then teach Americans that bigotry will not be tolerated. By changing the law, we can change hearts and minds, and I urge my colleagues to do so—to change hearts and minds, even change maybe their own minds and join with me and Senator KENNEDY in voting in favor of this most important and timely amendment.

Congress must take up and carry the torch of freedom and liberty so cherished by our forefathers. It is only through our ever vigilance against hate and those acts that threaten life, liberty and happiness of all Americans that we can achieve a just society.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 6 minutes on the legislation.

I want the history of this legislation to understand what a very important and significant role my friend and colleague, the principal sponsor of this legislation, the Senator from Oregon, GORDON SMITH, has played in giving us the opportunity on the floor of the Senate to vote on an issue of enormous importance and consequence in terms of justice in our country, and to be able to express what this Nation is really about; that is, that when we are going to be facing hate crimes, we are going to use every possible tool we have to deal with these crimes. We are not going to battle them with one hand tied behind our back.

I have enjoyed the chance to work with Senator SMITH on this legislation over a number of years. We have had some successes in trying to get it through the Senate, but we have failed. However, I admire my friend and colleague's perseverance. As Shakespeare says, perseverance, Lord, make honor bright, and the Senator from Oregon has enhanced the honor in the Senate

by giving us an opportunity to address this issue.

For those listening to these remarks, they may not understand how complicated it is to get a real vote on some matters which are basic and of fundamental importance. On many occasions when they have opposed the legislation, Members try to undermine the central thrust of the legislation, divert it with parliamentary tactics.

The Senator, because of the respect Members have for him, has been able to ensure that the Senate will address this issue frontally, and it should, because it is a defining issue in terms of our country and our society about what this country represents. On the issues dealing with hate crimes, we find them to be completely unacceptable in this country.

We have learned from past experience, in other hate crimes legislation, where the gaps in the legislation have been. This legislation is very targeted, limited, but an important legislative effort to try to address those serious loopholes in a way which is both constitutional, is limited, but also effective and can make an important difference in terms of reducing the incidence of hate crimes.

I am sure my friend remembers a number of years ago we had the proliferation of church burnings in this country, primarily focused in the southern part of this Nation. After a good deal of deliberation, we were able to get the FBI involved in church burnings. The difference we saw was virtually almost overnight. Once America understood in different places of the country that we were serious about making sure we would use the full resources of our National Government to halt church burnings, it is amazing how they were effectively halted. There are still a scattering of them in some communities but effectively the epidemic we were seeing at that time has halted.

The Senator from Oregon and I believe we can make the similar type of progress on the issues of hate crimes. That is why this is such an opportunity.

I will take a few moments later to describe the appropriateness of this amendment on this legislation and the particular challenges we have been faced with in the military. As an Armed Services Committee member who has reviewed and watched that closely, I will come back to this issue. However, let me point out this is entirely relevant to this legislation. We have seen that hate crimes have taken place in the military. A number of occasions I will describe or place in the RECORD.

On one particular occasion it was based upon race. We saw a commanding general perform in an extraordinarily exemplary way, and on another occasion, when dealing with a young gay man, the performance was abysmal. The fact is, we ought to make sure that certainly the Armed Forces are going to understand we are not going to tolerate the issues of hate crimes in the military or in any other place in our society.

It has been argued that our bill is discriminatory because it singles out hate crimes from other crimes when, in fact, all crimes are hate crimes. That is not true. It is not supported by the history or the law. Every crime is tragic and harmful and has its consequences because not all crime is based on hate. Hate crimes are based on bigotry or prejudice. A hate crime occurs when the perpetrator intentionally selects the victim because of who the victim is.

Mr. WARNER. If the Senator will yield, the Chair inquired as to the management of the time in opposition, and I ask unanimous consent that any Senator desiring to speak in opposition could speak for up to 10 minutes. If he or she desires additional time, we can seek an additional UC for another 10 minutes, and if a quorum is put in it will be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH. I further ask that the request be modified to reserve to Senator KENNEDY and myself any time unused after his remarks.

Mr. WARNER. Absolutely.

Mr. KENNEDY. I don't expect we will have numerous speakers, but it could happen that all the time will be taken up by people using 10 minutes.

So as I understand what the Senator is saying, those who want to speak may speak up to 10 minutes, but within the general timeframe the total time is divided.

Mr. WARNER. Yes.

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

Mr. KENNEDY. I ask that interlude not be charged against my time.

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

Mr. KENNEDY. As with acts of terrorism, hate crimes have an impact far greater than the impact on the individual victims and their families. They are crimes against entire communities, against the whole Nation, and against the fundamental ideals of liberty and justice for all on which America was founded.

As Attorney General Ashcroft has said, criminal acts of hate run counter to what is best in America, our belief in equality and freedom.

According to the surveys conducted by the Department of Justice, 85 percent of law enforcement officials believe hate-motivated violent crimes are more serious than similar crimes not motivated by bias. One need look no further than the current conflict in the Middle East or recall the ethnic cleansing campaigns in Bosnia, Rwanda, what is happening in the Sudan today, study the Holocaust itself, to understand that violence motivated by hate is different and is more destructive. Or consider the hate crimes committed in America. Most of them are committed by multiple offenders against a single victim.

Because the victims are attacked simply because of who they are, there is little that can be done to avoid being a victim of a hate crime. Hate crimes are twice as likely as other crimes to involve injury to the victim and four times as likely to require hospitalization.

In the 1993 decision in Wisconsin v. Mitchell, a unanimous Supreme Court recognized that bias-motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest.

A hate crime against one member of a group sends a strong message to the other members that you are next, that certain parts of the country aren't safe for you to work or travel or live in, that you better watch your step. This is domestic terrorism, plain and simple, and it is unacceptable.

Centuries ago, Blackstone commented it was unreasonable that among crimes of a different nature, those should be most severely punished, which are the most destructive of the public safety and happiness.

The simple fact is that hate crimes are different. They are more destructive than other crimes. The Federal Government has a responsibility to send a clear and unambiguous message that hate-motivated violence in any form from any source will not be tolerated.

Congress recognized the special harm caused by hate-motivated bias when it passed the current hate crimes law following the assassination of Dr. King in 1968, when it passed the Hate Crimes Statistics Act of 1990, and when it passed the Hate Crimes Sentencing Enhancement Act of 1994. Now it is time for Congress to take the next step toward protecting all Americans from the problems of hate-motivated violence, by passing the Local Law Enforcement Enhancement Act to address the obvious deficiencies in the current Federal hate crimes law.

As we mentioned, we are going to have our time. We hope those who might be in opposition would come over to the Chamber to debate us.

I think before I yielded myself 7 minutes. Do I still have a little time left on that?

The PRESIDING OFFICER. The Senator has consumed the time.

Mr. KENNEDY. Mr. President, I yield myself 2 additional minutes.

First of all, I know the Senator from Oregon, Mr. SMITH, has described this amendment, but what this amendment does is it authorizes the Justice Department to assist State and local authorities in hate crimes cases. It authorizes Federal prosecutions only when a State does not have jurisdiction or when a State asks the Federal Government to take jurisdiction or when a State fails to act against hate-motivated violence.

In other words, the amendment establishes an appropriate backup for

State and local law enforcement to deal with hate crimes in cases where States request assistance or cases that would not otherwise be effectively investigated and prosecuted. So this is very limited and targeted.

I want to remind the Senate that the original hate crimes preventive legislation was introduced in 1997 in the 105th Congress. The Senate Judiciary Committee held hearings in the 105th Congress and the 106th Congress. We had testimony from State and local law enforcement, the Justice Department, victims and families, and respected constitutional lawyers alike.

Our hate crimes bill has passed the Senate twice. In July of 1999, we passed it as an amendment to the Commerce-Justice-State appropriations bill. The amendment was stripped out in conference. In June of 2000, the bill was passed as an amendment to the Department of Defense authorization bill by a vote of 57 to 42. So there is precedent for this action. We had good bipartisan support.

Several months later, the House of Representatives voted 232 to 192 to instruct the conferees to accept the hate crimes bill. Again, however, the bill was stripped in conference.

In the 107th Congress, the Local Law Enforcement Act was introduced with 51 original cosponsors and favorably reported out of the Judiciary Committee by a vote of 12 to 7. In June of 2000, the Senate failed to invoke cloture on it with a vote of 54 to 43, with a clear majority supporting it.

So this issue has been studied. We have had extensive hearings. We have listened to the constitutional authorities. We have listened to local, State, and Federal officials with regard to this issue. We have also read the newspapers of this country and have studied what has been happening in the growth of hate crimes.

The PRESIDING OFFICER. The Senator has consumed the time.

Mr. KENNEDY. Mr. President, I will come back to that in a moment.

Mr. SMITH. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. Yes, I yield.

Mr. SMITH. I say to the Senator, I wonder, as you recounted some of these horrendous acts that have occurred, if you are familiar with the Wisconsin case that is called Wisconsin v. Todd Mitchell. It is the 1993 case in which Chief Justice William Rehnquist authored the decision upholding hate crimes legislation. As it says in this preamble:

> The question presented in this case is whether this penalty enhancement is prohibited by the First and Fourteenth Amendments. We hold that it is not.

Sir, this was a unanimous decision. And Justice Rehnquist—again, you would probably agree with me, I say to the Senator—is one of the more conservative justices. He wrote:

> Thus, although the statute punishes criminal conduct, it enhances the maximum penalty for conduct motivated for a discriminatory point of view more severely than the same conduct engaged in for some other reason or for no reason at all. Because the only reason for the enhancement is the defendant's discriminatory motive for selecting his victim. . . .

And that was the man's race.

Justice Rehnquist held it is entirely appropriate to look at the man's motive in ultimately ascribing the severity of the penalty that was handed down for this assault that was made by a White man on a Black man. It was prosecuted under the Federal Hate Crimes Act.

I am sure the Senator is familiar with that. Maybe he can help me to explain to my conservative colleagues how it is that we are trying to legislate thought or punish thought and punish speaking. Would the Senator agree with me that Justice Rehnquist and I are both right in saying we are only punishing conduct and the evidence that comes from thought and speech that can be used legitimately, constitutionally to enhance penalties?

Mr. KENNEDY. Mr. President, I thank the Senator for raising this issue because this is enormously important. The Senator from Oregon, in terms of protection of the first amendment, has reviewed the holding in the Wisconsin case.

As the Senator remembers, this principle was reaffirmed this last year by the Supreme Court in the cross burning decision in Virginia v. Black. As we know, as it has been interpreted, this act punishes violence, not speech. It covers only violent acts that result in death or bodily injury. It does not prohibit or punish speech, expression, or association in any way, even hate speech—even hate speech.

Those great lines of Oliver Wendell Holmes:

> If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate.

We ensure that even the hate speech is not affected in this. It is the violence, the physical violence that we are addressing, and it is enormously important that our colleagues understand that.

Mr. President, I withhold the remainder of the time.

I suggest that we have the quorum call, and I suggest that we have it on the opponents' time until it reaches where we are, and then we will charge it to both of us if that is acceptable.

Mr. SMITH. Mr. President, if I can modify the request, I think in fairness to my colleagues who disagree with me, we better charge it equally.

I ask unanimous consent that Senator ARLEN SPECTER of Pennsylvania be added as a cosponsor to this amendment.

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

Mr. SMITH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, I think we had 42 minutes, and we divided that up formally. May I ask, of the 21 minutes, how much time have I used?

The PRESIDING OFFICER. The proponents have 12 minutes.

Mr. KENNEDY. Twelve minutes. That is all that remains between both of us, Senator SMITH and I?

The PRESIDING OFFICER. No, for the proponents.

Mr. KENNEDY. We are both proponents.

The PRESIDING OFFICER. The opponents have 37 minutes.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

I will put more information in the RECORD, but I want to point out to our colleagues the growth of hate crimes in this country, what the Southern Law Poverty Center has said has taken place. That is the authoritative group, more so than even the Justice Department. The number of hate groups in America has expanded exponentially ever since 9/11. The figures we have here are basically dated figures, because they don't go in until after 9/11, but what we do see is the total number of hate crimes statistics during the period of the 1990s have been going higher and higher. Hate crimes based on sexual orientation have gone up significantly over the last several years. The venom and the hate against gays and lesbians has increased dramatically.

The backlash since 9/11 has been dramatic with regard to hate crimes against Muslims. This chart shows the dramatic increase and it is continuing to go up at an extraordinary level. Hate crimes against Arab Americans and hate crimes against Arabs have gone up dramatically in the last 2 years. Beyond that, hate crimes against Jews in the country and society have gone up exponentially as well. For all of these groups, I will include accurate information. But this is a real problem.

There is the possibility of not having a universal solution, and we don't suggest that with the passage of this amendment all of these problems are going to go away. But what we are going to say is, we ought to be battling this with the full force of the U.S. Government. When we guarantee the kinds of rights and liberties in this country that are in the Constitution and the Bill of Rights, we ought to make sure they are going to be enforced with the full power and authority of the United States. That is what our legislation does in dealing with the issue of hate crimes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, inasmuch as our colleagues are not here to debate Senator KENNEDY and me, I hope that is a good sign. I thought I would recount very briefly again the appropriateness of why this is on the military authorization bill, recounting the stories of two service people. They are somewhat horrendous, but it is appropriate that everyone understand why this has a very logical nexus for Senator KENNEDY and me with this piece of legislation and this amendment.

One of these crimes resulted in the death of an Army private and the other the death of a Navy seaman. In 1992, Navy Seaman Allen R. Schindler was brutally murdered by his shipmate Terry Helvey in Okinawa, Japan. Helvey beat and stomped Schindler to death simply because he was gay. He didn't want his wallet; he didn't want his watch; he wanted him dead because of his sexual orientation.

Helvey's attack was so vicious that he destroyed every organ in Schindler's body. He was so badly beaten that Schindler's own mother could identify him only by the remains of the tattoo on his arm. The medical examiner compared Schindler's injuries to those sustained by the victims of fatal airplane crashes.

In another tragic case, PFC Barry Winchell was forced outside his barracks at Fort Campbell Army Base where he was stationed. In the early morning hours of July 5, 1999—this is very recent history—Winchell was repeatedly beaten with a baseball bat by another Army private. He was beaten with such force and his injuries were so severe that he died shortly thereafter. Barry was only 21. He was murdered, again not for his watch, not for his wallet, but simply because he was gay.

These are appalling examples. Again, I want to say for the RECORD, I understand the reluctance of some of my colleagues to deal with issues that involve a person's sexuality, but I also want to say I don't agree with them. I think we need to treat people civilly and in the highest Christian traditions, no matter what we think of their lifestyles. I think the finest example we can find on this issue—really on point—is the great New Testament example when, in my view, the greatest person who ever lived was confronted with a woman being stoned to death because of her lifestyle. He did not endorse her lifestyle, but He risked His life to save her life. It does seem to me that if this can be done in ancient Israel, we ought to be able to do the same in modern America and have laws that reflect the very best part of the American people, that we stand and help those in need. You need read no more into it, no more moral approval in it.

I believe there are real family values, and I believe there are counterfeit family values. Arguments made to suggest that opposing hate crimes is a family value are truly misguided. When it comes to human necessities of making a living and having shelter and enjoying public safety, having the dignity and respect of law on your side, that is for all of us, I don't care how we conduct our lifestyles. That is for the American people. It includes gays and lesbians.

We are not censoring speech. We are not punishing thought. We are punishing crime. The statutes that are constitutional in this government, upheld by William Rehnquist as to their constitutionality, are long overdue to be added to to include this category of the American people who are gay and lesbian. The need is easy to demonstrate through statistics, through crimes committed on this community. Those of us who stand with the President in fighting the war on terrorism, I say great, but don't forget the war on terrorism at home. It includes defending gays and lesbians and other Americans and classes that make them vulnerable and more likely victims of crime. We owe them that, and we owe them at least that. We owe them more, in fact.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, the Defense bill we are working on today is critically important for our Nation. We need to complete that bill. It is important for us not to be distracted from it by bringing up amendments about which people feel strongly and which may be important, but are unrelated to defense and not germane to the issue before us.

I am glad we are able to at least proceed fairly promptly to a vote on this issue so that we can get back to the purpose with which we are dealing. We have soldiers in the field who are at risk this very moment. They need to know we are moving forward on business that relates to them, that deals with the issues that threaten their lives, and we need to make sure that we have every possible activity and report in this authorization bill to help them do their jobs better. I wanted to say that at the beginning. Sometimes these things happen, and we can offer amendments, but we do not need to do too much of this, in my view.

I raise two points about this so-called hate crimes amendment, and the reason that I will be voting against it. Different people can have different ideas and different values about how we should deal with this issue.

First, there is no legitimacy for any attack on any person because of their sexual orientation in America today. That is unacceptable behavior. It has always been unacceptable. We need to crack down on it aggressively. In fact, I believe States are doing so, as they do with all other crimes that occur throughout our country.

I was a Federal prosecutor for 15 years and dealt with the distinctions between Federal and State law on a regular basis. Most people may not realize that if someone robs a gas station, or someone shoots your daughter on her way home from school, or someone commits a rape, those are not Federal crimes. They are not prosecuted in Federal court. They cannot be prosecuted in Federal court under normal circumstances. They have always been given over to the States for prosecution. That is very important.

We have developed and expanded over the years the reach of Federal law, and in some instances that is quite good, I believe—but in some instances it is very much in dispute. In fact, liberals and conservatives say Federal law is reaching over and prosecuting and taking over cases. There are always some State offenses that are prosecuted in Federal court. Regardless of the debate, what we have decided to do in the past is each case should be evaluated on its own. I will make a couple of points.

With regard to this hate crimes legislation, Senator HATCH, the chairman of the Judiciary Committee, proposed what I thought was a good piece of legislation some time ago. That legislation said we would conduct a study, in effect, to see what the need of this legislation is. I have to tell you, Mr. President, if you want to prosecute somebody for assaulting, shooting, or harming another person, it is easier to prosecute that case if you do not have to prove what was in the mind of the person who did it. That is an additional element of a crime, one not easily proven. I know the Presiding Officer is a lawyer and skilled in these matters. It is an additional element to the crime that must be proven.

If we were to create such a hate crime, we would basically be taking on an offense that would be a fundamental State crime—an assault, a murder, or assault with intent to kill. You would be transforming that kind of crime into a Federal offense, and not only would you have to prove all the underlying elements that would be true in a State trial, but you would also have to prove that the person did it for a reason of hate, but not just any hate. If you dislike U.S. Senators and you beat up one—there may be a Federal law that protects a Senator, I don't know.

If there is a State legislator and someone goes and beats them up because they hate them, because of the way they voted, all right, that can be taken care of in State court. But what would make it a Federal offense? Well, if a person hated him, but they hated him for a particular reason—they hated him because of sexual orientation—that is why this becomes now a Federal offense rather than a State offense.

One can make arguments that this is all right to do. We did that with the

issue of race in America, and there was a very real reason for it. As a southerner myself, I am sorry to say that in fact and in reality there were areas in this country where crimes against African Americans were prosecuted either not at all or not adequately; there was not proper punishment being imposed in those cases and people were denied civil rights. At certain periods of time in our Nation's history, feelings were so strong that cases could not be effectively prosecuted. That was clear. That was established. That was a fact, unfortunately.

So the Federal Government said those kinds of crimes involving race could be prosecuted in Federal court under the civil rights statute even though there may be an underlying State offense. That is how those came into effect.

Now we are being asked to go one step further. I think maybe we ought not do that. Senator HATCH's study would have analyzed the question of whether offenses involving assaults on gays are being adequately prosecuted in America. If they are being adequately prosecuted—and most States would have tougher laws. Most States have death penalty laws. This bill does not provide the death penalty for the murder of somebody under a hate crime. So are those being adequately prosecuted?

We know in a case in Colorado that a person committed murder because of the victim's sexual orientation, apparently, and was given the death penalty in State court. One offense occurred in my home State of Alabama, and he was tried and given life without parole. So I am not aware of those offenses being inadequately prosecuted. That is what I am saying.

In addition, there is this troubling concept of what is in one's mind. If the Social Security office turned a person down for their disability and they did not get a disability paycheck and they spent weeks churning it in their heart and soul and their hatred built and built and they finally went down to the Social Security office and shot everybody, well, that would not meet the definition of hate crime under this statute. It might be a Federal offense because it is the Federal Social Security agency, but if it had been a local State official it would not be a Federal crime. There would be no Federal jurisdiction.

So we are being asked to take that extra step into creating a new offense in Federal law based on the question of what is in somebody's mind when they commit the crime.

Classical American jurisprudence has been simple and direct. I know as a student in law school I learned about these things and as a former prosecutor I have been thinking a lot about it lately. I think sometimes even we who have been former prosecutors get overly aggressive about passing statutes to deal with every wrong that comes up.

Let's take the burglary statute that is in effect in almost every State in America today. It makes it a State crime to break and enter into a dwelling with the intent to commit a felony. Some of them are first degree, such as when the crime involves an occupied dwelling at night and those are the elements of their crime. That is what we have done for 200-plus years in America and England. It did not say why a person broke into somebody's house or even what kind of felony someone may be intending to commit. It could be rape; it could be robbery; it could be theft. So that is the clarity with which our law has traditionally operated.

Now we are saying if someone assaults and kills this person because they were mad at him over a girlfriend and hated him for it, that is not a Federal offense, but if a person is angry because of someone else's sexual orientation, that could be a Federal offense. Maybe that is justified and some would find it justified, but I think before we continue down this road of moving into the psychological motivations for a specific act of committing a crime, we ought to ask ourselves: is it the kind of problem we know is not being effectively prosecuted and handled in America today, is not being prosecuted and sentenced effectively based on the act that was committed, so that now we need to figure out the motive behind the act and make it a Federal crime? That is what we need to be thinking about.

I do believe Senator HATCH's legislation that he offered some time ago I think it even passed this body once, although it did not become law—said let us do a study of that and analyze where we are so we can deal with it.

Well, terrorists hate us for various reasons. People hate our Government. Some of them hate police officers. Would it be a Federal crime to commit murder against a police officer? Not to my knowledge. It would not be a crime to do that if someone hates the police officer or hates the jailer who locks up a person in compliance with the law of the land. The jailer could be murdered and that would not be a Federal offense.

This should not be seen as any kind of referendum on how we think about the treatment of people with various sexual orientations. This is a great, free country. It is a country that allows behavior people may agree with or not agree with. In my view, it is just as much a crime to injure or harm anyone whether it is as a result of their sexual orientation or any other behavior they may be participating in. Maybe someone does not like them because they are out there complaining about George Bush or complaining about JOHN KERRY and they hate them for that. That would not be a Federal crime if action is taken against them.

I do not know that we need to take this step today. In fact, I think we should not. It is something that deserves careful consideration and is not to be thrown onto the Defense bill as we are moving forward at this date. Let's think it through. Let's do a study, as Chairman HATCH has suggested. Let's see if there is a real problem out there. If there is a problem of failure to enforce the law, then I would say this could be justified. We have done it before with regard to civil rights actions. Maybe it would be appropriate to do it now. Frankly, I do not see that today. I think it is a reach in terms of need and creates the danger of criminalizing thought processes rather than actions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise to comment on the remarks of the Senator from Alabama. I join and agree with his remarks. I have said to the Senator from Oregon on more than one occasion, if I believed hate crimes were a proper crime for the Federal Government to be passing on, I would vote for this as well as the others, but I do not believe, as the Senator from Alabama stated, we should be criminalizing thought, and that is what this does. I have always said the greatest of the freedoms we have in this country is the freedom to believe what we want to believe and the freedom to think what we want to think. I know there are lots of motivations for people to do things and there are lots of bad thoughts out there in people's minds, but we do not criminalize those. We only criminalize them if there are actions taken. We criminalize the action, not the thought.

I think protecting the freedom of belief and the freedom to think the way one wants to think is an important concept in our country, somewhat unique in the American Constitution, and I believe this hate crimes amendment violates that very premise. So I will vote against this amendment.

I wanted to be clear, as the Senator from Alabama was clear, it is not because of the group that happens to be identified in this amendment to be subject to hate crimes. It could be any group.

I will vote no because I believe the premise underlying this criminal statute is faulty. I regret to have to oppose our two colleagues who are trying to take a step forward and bring civility and protection to certain people who have been the subject of violence. But I do not believe this is the right way to do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, have we used all time on our side?

The PRESIDING OFFICER. Yes. Twelve seconds remain to the opponents.

Mr. SMITH. I ask unanimous consent to speak for 2 minutes, and I probably won't use that.

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

Mr. SMITH. Mr. President, there are few people I like more than my colleagues who are speaking against this

amendment. They know that. They know I respect their right to disagree with me. But I want to state for the record that if I believed what Senator KENNEDY and I were doing was criminalizing thought, I would vote against this amendment. What we are doing is criminalizing actions. It is always the case in criminal law that you look at all of the evidence, and if it can establish that words and thoughts have led to actions that rise to hate crimes—William Rehnquist, the most conservative Justice we probably have on the Supreme Court, and maybe some would argue that a couple others are more conservative—held in a unanimous Supreme Court decision that existing hate crimes statutes are constitutional because they do not punish thought. They do not impinge upon the first amendment. They do not impinge upon the 14th amendment because it takes action to commit a crime, and the words and the thoughts are simply evidentiary materials that go into motive to establish a crime. You have to establish motive.

This is simply an enhanced version of looking at the totality of a crime. If it can rise to a hate crime, it ought to be prosecuted. This is the constitutional law of America. We are simply saying there is a category of Americans out there who ought to be added to settled constitutional law of the Federal Government. We owe them at least this; they deserve no less than a vote on this amendment.

I yield the floor.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Smith amendment on hate crimes. This amendment mirrors the Local Law Enforcement Enhancement Act, which I have been proud to co-sponsor. This bill puts America's values of equality and freedom into action.

Hate crimes are one of the most shocking types of violence against individuals. They are motivated by hatred and bigotry. But hate crimes target more than just one person—they are crimes against a community because of who they are—because of their race, gender, sexual orientation, religion or disability.

We are a nation that cherishes our freedom. All Americans must be free to go to church, walk through their communities, attend school without the fear that they will be the target of hate violence. We are a Nation that is built on a foundation of tolerance and equality. Yet no Americans can be free from discrimination and have true equality unless they are free from hate crimes. That's why hate crimes are so destructive. They tear at our Nation's greatest strength—our diversity.

This amendment does two things—it helps communities fight these crimes and it makes sure that those who are most often the target of hate motivated violence have the full protection of our Federal laws.

The amendment strengthens current law to help local law enforcement investigate and prosecute hate crimes. It does this by closing a loophole that prevented the Federal Government from assisting local and State police at any stage of the investigative process. Simply put—this bill authorizes Federal law enforcement officers to get involved if State or local governments want their help. That means local communities, which often have very limited resources for pursuing these types of crimes, will have the resources of the FBI and other Federal law enforcement agencies at their disposal to help them more effectively prosecute incidents of hate violence.

This amendment also improves current law so it protects more Americans. It broadens the definition of hate crimes to include gender, sexual orientation and disability. Today, gay and lesbian Americans, women and those with disabilities are often targets of hate motivated violence, but existing Federal laws offer these communities no safeguards. That is the weakness in our current law. And that is what this legislation will fix. By passing this legislation today, the United State Senate says to all Americans that you deserve the full protection of the law and you deserve to be free from hate violence.

Hate crimes are crimes against more than one person—these crimes affect whole communities and create fear and terror in these communities and among all Americans. We need look no further than the horrific killings of James Byrd and Matthew Shepard to know the anger and grief that families and communities experience because of hatred and bigotry. Hate crimes attack the fundamental values of our Nation—freedom and equality. This bill is another step in the fight to make sure that in a Nation that treasures these values these crimes do not occur.

So today I rise to support and urge my colleagues to pass this much needed and timely legislation. It is time that we put these American values into action and passed this hate crimes bill. The Local Law Enforcement Enhancement Act says that all Americans are valued and protected—regardless of race, religion, gender, sexual orientation or disability.

Mr. ENZI. Mr. President, I rise in opposition to the Local Law Enforcement Enhancement Act, Amendment 3183, proposed by my colleague from Oregon.

I have always believed that we should leave as many decisions as possible to the States to decide. Only on rare occasions, and with great and good cause should the Federal Government try to step in and legislate what the States should do. When we try to legislate ''one size fits all'' solutions to the problems facing the States more often than not we create more problems than we solve.

Before we act on this amendment, we should ask ourselves if this new law that we would create would reduce crime. After all, that should be our primary reason for passing new criminal laws. In this case, although I know it is a well meaning effort to address a serious problem, it won't prevent crime, it will only make a statement about it. That's one of the problems with a Federal hate crime bill. If it passes, we may think we have taken care of the problem. Unfortunately, although it may make us feel good, a law like this will do little to slow down or stop the cycle of violence in our cities and towns.

Another problem with the hate crime bill is its definition of hate crimes. All of the predicate offenses that would qualify as hate crimes are already illegal and they are already being prosecuted under traditional categories of crimes. In other words, the States are already aware of the problem and using existing law to address it. In those cases where additional legislation is needed, the States are taking the lead and deciding the matter for themselves. They don't need or want us to step in and tell them what they should do.

In addition, if we pass this amendment Federal agents and prosecutors will be put in a position in which they will be second guessing the efforts of local officials and substituting their own judgment or political motivations for the judgment of local law enforcement personnel who are dealing with the problem of hate crimes at the scene where they are committed.

The Smith amendment could essentially federalize most crimes. Such an explosion in Federal jurisdiction would require a tremendous expansion in the size and scope of Federal law enforcement and Federal prosecutors at a time when the States have the capability of prosecuting these crimes themselves—and they are doing it. Federal prosecutors already have the tools at their disposal to address issues like hate crimes—they just have to make better use of them.

All crimes are in some way hate crimes. By enacting hate crime legislation we ironically serve the principle of inequality that this type of legislation seeks to fight against. Violent crimes are horrific and should be punished equally, regardless of the particular ''bias'' of the perpetrator. A vicious murder should be prosecuted to the fullest extent of the law—no matter who the victim is. The value of an individual's life should not depend on their heritage, ethnicity or lifestyle. If life truly is a sacred gift we should treat every life with the same dignity and respect we all deserve.

To try to read someone's mind, or guess what their real motivation was for committing a crime will never be possible. Crimes aren't thoughts, they're actions, and actions which are crimes need to be addressed as soon as they are committed. To try to gauge the seriousness of a crime based on someone's thoughts is to put an additional burden on law enforcement personnel and prosecutors, not to mention the judge and jury who will have to work on and ultimately decide the

case. Clearly, putting a greater value on some lives inherently devalues others, and it goes against a basic principle of our legal foundation which is that all are equal in the eyes of the law. Justice is swifter when the accused are tried on the basis of what they did without adding some speculation on the thoughts they might have had while committing the crime.

We have State and Federal laws to punish murder, assault, battery, and a long list of other crimes. If these laws are not strong enough then we should make them stronger. We should also be making our feelings known to our neighbors, to our children, in our papers and through our broadcast media that hatred in any form is wrong. We should not, however, try to make statements with laws that weaken State authority or the rights granted to individuals in the Constitution.

Our society must continue to participate in a dialogue on the issues of racism, bigotry, and hate. We must pray for direction and guidance and work together to ensure that we avoid the kind of hate that may give rise to such crimes in the first place. Hatred in any form is destructive to the very foundation upon which our society is built.

If we are to truly address the problem of hate crimes, we must come together as one, our families, our spiritual and church leaders, our local and community leaders, and the citizens of our communities to foster and reinforce in our children and all our citizens the importance of treating each other as we would wish to be treated. It is such a simple lesson—it is never permissible to hurt another. Somehow, some of our children never learned it. Recent and past events make it clear that it is a lesson about which every child must be taught, and every adult constantly reminded.

Mr. HATCH. Mr. President, I rise today in opposition to the Local Law Enforcement Enhancement Act of 2003, offered as an amendment by my dear friend from Oregon, Senator SMITH.

Those who have been instrumental in drafting hate crimes legislation in the past several Congresses—Senators KENNEDY, SMITH and others—know I care deeply about this issue. They know I believe that hate crimes are insidiously harmful, that they should be forcefully prosecuted, and that the Federal Government has a role to play in reducing the incidence of these crimes in our Nation. The concerns I have voiced have always been about what Congress should do at the national level, not about whether we should act.

In past Congresses, and again here today, I have felt compelled to voice my opposition to Senator SMITH's hate crimes legislation which has essentially remained unchanged over the past several years, and is now being offered as an amendment. My primary concern has been, and remains to this day, that this legislation invades an area historically and constitutionally reserved to State and local law enforcement authorities, without a demonstrated need for Federal intervention. In an effort to do what we believe is right, we simply cannot ignore core principles of our Constitution.

While there is little evidence that the States are failing to prosecute hate crimes, I firmly believe that local law enforcement authorities need our help. They need our resources, and they need our expertise. And we, the Federal Government, should stand ready and able to provide such assistance. We must proceed, however, in a manner that does not offend the authorities conferred upon the States by our Constitution.

As all of my colleagues are aware, this body has considered this issue in almost every session of Congress since 1999. I recognize that Senator SMITH has the necessary support in this body to pass his amendment. Indeed, his amendment has prevailed twice before. Recognizing that a majority of the Members of this body have supported Senator SMITH's proposal in the past, and in view of the substantial concerns I have about the amendment, over the past few months I have worked diligently to improve the legislation so that it may receive much broader bipartisan support. I have suggested that the proposal include Federal assistance and a study and an analysis of available statistics. I have also suggested that the amendment be broadened to include the possibility of the death penalty for those who commit the most heinous of crimes. I also think that the definition and intent elements of what is considered to be a hate crime should be significantly narrowed so that we do not capture every crime that happens to be committed against a member of a particular class. With these changes, the legislation would stand a better chance of becoming law and surviving constitutional challenges, which we know are certain to occur. Despite those concessions, it appears clear that we were unable to come to an agreement and I must, therefore, once again stand in opposition to two of my dear friends.

If we genuinely want to make a difference, if we want to pass legislation that both Houses of Congress will support, let us find a baseline of common ground and resist the temptation to make this a divisive political issue. I urge my colleagues to oppose the amendment.

I yield the floor.

NOMINATION OF VIRGINIA HOPKINS

Mr. HATCH. Mr. President, I rise in support of the confirmation of Virginia Hopkins for the United States District Court for the Northern District of Alabama. I have reviewed her record and I find her to be an excellent choice for the federal bench. Virginia Hopkins possesses 25 years of legal experience that will serve her well on the federal bench.

Upon graduating from the University of Virginia School of Law in 1977, Ms. Hopkins joined the Birmingham, Alabama law firm of Lange, Simpson, Robinson & Sommerville, LLP. There she had a broad civil practice that included appellate matters, tax and estate planning, business dispute resolution and planning, and labor disputes. She also worked for another widely respected law firm, Taft, Stettinius & Hollister LLP. in Washington D.C.

In 1991, Ms. Hopkins returned to Alabama to join the firm of Campbell & Hopkins LLP., where she is currently a partner. Over the past 12 years, she has developed a broad civil practice, including litigation, tax and estate planning, business dispute resolution and planning, trademark and copyright registrations and disputes, trade secret disputes, confidentiality agreement disputes, and trade name disputes.

I am confident that she will make a fine addition to the Northern District of Alabama.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY. Mr. President, today we vote on the nomination of Virginia Hopkins to the Northern District of Alabama. Ms. Hopkins has been an attorney at the firm Campbell & Hopkins in Alabama, and has the support of both of her home State Senators. In particular, Senator SHELBY deserves praise for diligently pressing forward, and this confirmation rewards his constant attention to this nomination. Senator SHELBY has always been a pleasure with whom to work, whether I was serving as chairman or ranking member. Senator SHELBY has always been someone who plays it straight and shows good judgment. He is fair and forthright.

I must note that since May 18, the date of the agreement on judicial confirmations this year involving Senator DASCHLE, Senator FRIST and the White House, the Senate has confirmed seven judges, including two circuit court nominees. We confirmed Marcia Cooke to the district court in Florida, Judge Van Antwerpen to the Third Circuit in Pennsylvania, and Ray Gruender to the Eighth Circuit the first week of that agreement. The following week, the Senate confirmed the nominations of Dennis Saylor, Sandra Townes, Ken Karas, and Judith Herrera to the Federal district courts.

Last week, the Republican leadership did not schedule any judicial nominations for a vote and considered other business during that shortened work week. In the month since the agreement to have a floor vote on 25 judicial nominees, the Republicans have asked for votes on only seven judicial nominees and have scheduled debate on a variety of matters other than judicial nominees. That is their choice. The Republican leadership knows that some of the remaining nominees in the agreement for votes this year require significant time for debate.

I do not want to see the Democrats blamed for any delay in confirmation votes when Republicans have been advised for weeks now that it is going to

take time for the Senate to process all of the nominees in the agreement. Members of the Senate deserve time to consider the merits of the nominees for lifetime positions. Democrats have been working cooperatively on judges but the Republican leadership has not worked with us to schedule the debate and votes on the many remaining judicial nominees that we had hoped could be considered before June 25. After today's three votes, 15 judicial nominees remain to be scheduled for debates and votes. I hope that we can make progress on more nominees this week and next. At the pace the Republican leadership has chosen to proceed, there is now a strong likelihood that debate and votes on some of these judicial nominees will extend past June 25.

On the occasion of the confirmation of this Alabama nominee, I would note that some in the Senate have falsely alleged that Democratic Senators have treated southern nominees unfairly. Some extreme partisans tried to divide the American people for partisan political gain with their false accusations against Democratic Senators. The truth is that Democrats have treated judicial nominees from the South very fairly: Southern States comprise about 25 percent of the States in the Nation, yet out of the 181 judicial nominees of President Bush that we have confirmed as of this vote, 59 nominees, or one-third of the confirmed nominees, have been to judicial seats in the South. In particular, I would note that six of President Bush's judicial nominees have already been confirmed to United States district courts in Alabama since he took office: Judge Karon Bowdre, Northern District; Judge Callie Granade, Southern District; Judge Mark Everett Fuller, Middle District; Judge L. Scott Coogler, Northern District; Judge R. David Proctor, Northern District; and Judge William Steele, Southern District. Judge Steele, as you may recall, was initially nominated by President Bush to the Eleventh Circuit, but President Bush pulled down the elevation of this then-U.S. magistrate judge in order to put forward the even more controversial William Pryor, who was recess appointed earlier this year despite the serious objections of numerous Senators. Recent news articles about Judge Pryor's actions on the bench have only underscored the concerns of many that he lacks the political independence and fairness to serve as a judge.

Ms. Hopkins received a partial ''Not Qualified'' rating from the American Bar Association. Following the White House's exclusion of the ABA from reviewing judicial candidates before they have the President's stamp of approval, a dismaying number of this President's nominees have received ''Not Qualified'' ratings. Indeed, four of his nominees were rated ''Not Qualified'' by a majority of the ABA rating committee, and 24—more than 10 percent—were rated ''Not Qualified'' by some members of the ABA's standing committee.

The weight that should be accorded an ABA rating was called into question after the debacle in which Republican partisan Fred Fielding prepared Miguel Estrada's ABA rating recommendation. Mr. Fielding not only served on the White House transition team advising the President about Cabinet appointments, he subsequently cofounded the Committee for Justice, which attacks anyone opposed to the President's judicial nominees. Similarly, the ABA's rating to Judge Pickering after his judicial ethics were called into question by national ethics experts undermined the confidence that some in the Senate had in the evaluations of the ABA's rating committee. Also, the ABA's ratings do not take into account the President's effort to put so many ideologues and extremists into these lifetime positions on the bench.

In Ms. Hopkins' case, the ABA rating may reflect her modest trial experience: She has been the sole or chief counsel in only two of the cases she has tried to verdict. Ms. Hopkins has been active in Republican fundraising like many of the President's nominees, but I am hopeful, given the confidence Senator SHELBY has reposed in her, that she will leave her partisan roots behind upon confirmation. Out of deference to Senator SHELBY, I will vote in favor of her confirmation.

I congratulate Ms. Hopkins on her confirmation.

NOMINATION OF RICARDO MARTINEZ

Mr. HATCH. Mr. President, I am pleased today to speak in support of Judge Ricardo Martinez, who has been nominated to the United States District Court for the Western District of Washington. Since 1998, Judge Martinez has served as a federal magistrate judge—an experience which undoubtedly has prepared him well for the district court bench.

Judge Martinez has a compelling story. The son of former migrant workers, he lived in a migrant camp for several years during his childhood, where he worked with his parents on the farms. Neither he nor his parents understood English, but with the help of his teachers, he mastered the language and became the family's interpreter. He also became the first in his family to attend high school. Incidentally, he was one of two boys to graduate from high school with honors.

Judge Martinez then attended the University of Washington, where he earned a Bachelor of Science degree in psychology. He subsequently graduated from the university's law school, where he had been a member of the Order of the Coif.

Following graduation from law school, Judge Martinez spent 10 years as an assistant prosecutor with the King County Prosecuting Attorney's Office where he became chief of the drug unit. After his appointment as a judge on the King County Superior Court in 1990, he started the State's first drug court, which allows those who are arrested on minor drug-related charges to have the charges dropped in exchange for staying drug-free, completing their education and seeking employment.

I applaud President Bush for his nomination of Judge Martinez and am confident that he will serve on the bench with compassion, integrity and fairness.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY. Mr. President, today the Senate considers the nomination of Ricardo Martinez, to be a United States District Judge for the Western District of Washington. For the past 6 years, he has been a widely respected United States Magistrate Judge for the Western District of Washington. Previously, Judge Martinez served as a Superior Court Judge and as an assistant prosecutor in King County, WA. He is a graduate of the University of Washington and of the University of Washington Law School, and has substantial trial experience. In light of his significant judicial experience it is not surprising that he received a unanimous rating of ''Well-Qualified'' from the American Bar Association.

Judge Martinez's nomination is the product of a bipartisan judicial nominating commission that Senators MURRAY and CANTWELL insisted upon in spite of Bush administration opposition. The State of Washington is well-served by its bipartisan judicial nominating commission which recommends qualified, consensus nominees on whom members of both parties can agree. It is difficult to understand why President Bush has opposed similar bipartisan selections commissions since they help Democrats and Republicans work together and help maintain an independent judiciary. I thank Senators MURRAY and CANTWELL for their steadfast efforts in maintaining the commission.

While some people have accused Democrats of being anti-Hispanic, our record of confirming Hispanic nominees is excellent. Democrats have supported the swift confirmation of President Bush's Latino nominees already, with four more waiting only for a vote on the Senate floor. While President Clinton nominated 11 Latino nominees to circuit court positions, five of those 11 were blocked by the Republican Senate, and four of those five were not even granted hearings. President Bush has only nominated four Latino jurists to circuit court positions, three of whom have already been confirmed with unanimous Democratic support. President Bush's 21 Latino nominees constitute less than 10 percent of his 225 judicial nominees.

Regrettably the President has been more concerned with nominating those affiliated with the Federalist Society. He has nominated 45 such nominees. Twice as many nominees have been affiliated with the Federalist Society as have been Hispanic. In fact, all of his Hispanic, Asian and African American judicial nominees combined do not

equal the number of those affiliated with the Federalist Society.

This confirmation marks the 182nd lifetime judicial appointment approved by the Senate during this Presidential term. That is more than is all of President Reagan's term from 1981 through 1984 and more than in all of President Clinton's more recent term from 1997 through 2000. We have also approved more judicial nominees this Congress than in either of the last two Congresses preceding the Presidential elections in 1996 or 2000.

I strongly support his nomination and I congratulate Judge Martinez and his family on his confirmation.

Ms. CANTWELL. Mr. President, it is my privilege today to discuss the incredibly talented nominee for vacancy on the District Court for the Western District of Washington, Judge Ricardo Martinez. The people of western Washington will be well-served by this talented and fair jurist.

Given Judge Martinez's reputation for even-handedness and thoroughness, it is fitting that he was recommended by a bipartisan selection committee that I believe is a sound model for other States. Members of Washington State's legal community, the White House, and my colleague Senator PATTY MURRAY and I worked together to review a group of applicants. Together, we all agreed that Judge Martinez is the right person for the job.

Judge Martinez has ably served the people of Washington State as a public servant for more than two decades: as prosecutor in the State's largest county for 10 years; as a Superior Court judge for 8 years; and as a United States Magistrate judge in the Western District of Washington for the past 5 years.

While serving on the King County Superior Court, Judge Martinez took the lead in helping to create an innovative ''drug court'' to address the unique challenge of recidivism among drug offenders. He helped build a consensus to try a new approach, and preside over the new court for three years.

And it worked. The''drug court,'' one of the first in the Nation, has helped reduce recidivism rates among those people who successfully complete the program and it has been emulated by many jurisdictions across the country.

Judge Martinez's commitment to his community extends beyond the courtroom. He has volunteered countless hours to help those in need and the homeless; to mentor young people as a coach in several sports; and to raise money for college scholarships for young men from disadvantaged backgrounds.

Those who have worked with Judge Martinez attest to his fundamental sense of fairness and justice. The ABA rated him as ''well-qualified''—its highest rating—on a unanimous vote. He also enjoys support from the Federal bench, and was encouraged to apply for the vacancy by all of the incumbent judges of the Western District.

I am pleased to offer Judge Ricardo Martinez my full support, and I urge my fellow Senators to approve his nomination.

NOMINATION OF GENE PRATTER

Mr. HATCH. Mr. President, I rise today in support of the nomination of Gene Pratter to be United States District Judge for the Eastern District of Pennsylvania.

Gene Pratter, has contributed much to the legal community over her 29 year legal career, specifically in the areas of ethics and professional conduct. Upon graduation from University of Pennsylvania Law School, Ms. Pratter joined the law firm of Duane Morris & Heckscher—now Duane Morris LLP. She has remained with this firm since her first days as an associate and is currently a partner in and general counsel of the firm.

She has represented numerous clients in commercial litigation and professional liability. She has also represented licensed law, financial and other professionals before State and national licensing boards and in litigation throughout the country in both federal and State courts. She has practiced in a variety of legal issues including litigation and alternative dispute resolution, with emphasis on commercial, securities, employment contract, real estate, insurance coverage, RICO, professional and business ethics, and professional liability litigation. She has also represented the Philadelphia Zoo.

Additionally, Ms. Pratter has served as an expert witness and has overseen legal issues for her law firm, Duane Morris, for a number of years while also holding the position of vice-chair of the firm's Trial Department. She has also been named as a Judge Pro Tem in the Philadelphia Court of Common Pleas and a mediator for the U.S. District Court for the Eastern District of Pennsylvania.

Ms. Pratter has been a guest faculty member at the University of Pennsylvania Law School, where she lectured on the legal profession and professional responsibility. She also served on the School's Board of Overseers from 1993 to 1999. She is active in numerous professional and community associations.

I have every confidence that she will make an excellent federal judge. I commend President Bush for nominating her, and I urge my colleagues to join me in supporting this nomination.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY. Mr. President, today we vote to confirm another district court nominee, Gene Pratter to the U.S. District Court for the Eastern District of Pennsylvania. Ms. Pratter is currently a partner at the firm Duane Morris LLP, where she has worked her entire career.

A look at the Federal judiciary in Pennsylvania demonstrates yet again that President Bush's nominees have been treated far better than President Clinton's and shows dramatically how Democrats have worked in a bipartisan way to fill vacancies despite the fact that Republicans blocked more than 60 of President Clinton's judicial nominees. With this confirmation, 17 of President Bush's nominees to the Federal courts in Pennsylvania will have been confirmed—a rate not matched in any other State but California.

With this confirmation, President Bush's nominees will make up 17 of the 42 active Federal circuit and district court judges for Pennsylvania—that is more than one-third of the Pennsylvania Federal bench. On the Pennsylvania district courts alone, President Bush's influence is even stronger as his nominees will hold 14 of the 33 active seats—or more than 42 percent of the current active seats. With the additional Pennsylvania district court nominees pending on the floor and likely to be confirmed soon, nearly half of the district court seats in Pennsylvania will be held by President Bush's appointees. Republican appointees will outnumber Democratic appointees by nearly two to one.

This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate when President Clinton was in the White House. Republicans denied votes to nine district and one circuit court nominees of President Clinton in Pennsylvania alone. Despite the efforts and diligence of the senior Senator from Pennsylvania, Senator SPECTER, to secure the confirmation of all of the judicial nominees from every part of his home State, there were 10 nominees by President Clinton to Pennsylvania vacancies who never got a vote. Despite records showing them to be well-qualified nominees, many of their nominations sat idle before the Senate for more than a year without being considered. Such obstruction provided President Bush with a significant opportunity to shape the bench according to his partisan and ideological goals.

Recent news articles in Pennsylvania have highlighted the way that President Bush has been able to reshape the Federal bench in Pennsylvania. For example, The Philadelphia Inquirer, on November 27, 2003, said that the significant number of vacancies on the Pennsylvania courts ''present Republicans with an opportunity to shape the judicial makeup of the court for years to come.''

Democratic support for the confirmation of Gene Pratter is yet another example of our extraordinary cooperation despite an uncompromising White House and a record that shows Republicans' refusal to cooperate on President Clinton's Pennsylvania nominees when they controlled the Senate and a Democrat resided at 1600 Pennsylvania Avenue.

Like so many of President Bush's nominees, Ms. Pratter is a member of the Federalist Society and has been involved in numerous Republican Party campaigns. She has no judicial experience although she comes from a well-

respected law firm. Her record of defending businesses raises concerns about her ability to balance business and individual interests. In her answers to my written questions, however, she assured me that she would be fair to all parties that come before her. I hope that she will be a person of her word. I hope that she will follow the law. I hope that she will treat all who appear before her with respect. I hope she will not abuse the power and trust of her position. Sometimes we have to take a risk to allow a nominee to be confirmed.

I congratulate Ms. Pratter on her confirmation today.

Mr. SANTORUM. Mr. President, I yield the remainder of time in opposition.

Mr. SMITH. Mr. President, I believe we have used all our time. Therefore, I believe we are ready to vote.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

EXECUTIVE SESSION

THE NOMINATION OF VIRGINIA E. HOPKINS TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA

THE NOMINATION OF RICARDO S. MARTINEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON

THE NOMINATION OF GENE E.K. PRATTER TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider nominations 563, 564, and 566. There will be 20 minutes of debate equally divided between the chairman and ranking members of the Judiciary Committee, or their designees. At the conclusion of 20 minutes, we will vote on the nominations, following which there will be a vote on the pending amendment.

Mr. SANTORUM. Mr. President, I rise to speak in favor of Gene Pratter, who is the nominee, as you noted, on the Executive Calendar for the Eastern District of Pennsylvania.

Gene has an outstanding record of community service, of service to the legal community, working in very complex and difficult litigation with a large law firm in the city of Philadelphia. She is someone who has been active, as I mentioned, in the community and in political life, and is the kind of well-rounded individual who I think would make an excellent jurist on the court.

She is someone I have gotten to know over the past 10 or 12 years, and I have respected her demeanor. She has a very professional but yet gentle way of discussing sometimes rather contentious issues in which we have been involved.

Again, I respect the way she approaches issues that confront her. She has proven that she has outstanding legal abilities. She has proven that she understands the importance of community and the importance of being a good citizen and participating as a citizen beyond just the professional life, which to me, as a judge, is something that is very important.

We have been fortunate under the leadership of Senator SPECTER in finding now 20 judges under this administration who have been nominated, and I believe the number is 17 or 18 who have been confirmed by the Senate. We have done a good job in finding people who are well rounded and people who have judicial experience and judicial temperament about which I spoke, as well as a record of community involvement and active citizenship which rounds out the person. So when they come to the bench, they are not just a narrow scholar or someone who is a ''hail fellow well met'' but a nice combination of the two that brings the kind of commonsense judicial temperament that is important in our court system.

I commend Gene for her steadfastness in this process. As anybody who has gone through this process in the last couple of years will tell you, this is a difficult and somewhat tortuous process where you are on again, off again; You don't know whether your career is going to move forward or is going to stay in limbo. Is it going to fall off the docket and not be heard from again? That is a very difficult thing for all of these nominees to have to go through.

But thanks to the agreement of Senator FRIST and Senator DASCHLE, we have been able to move some of these nominations—the ''noncontroversial nominations''—and we will now have a vote on Judge Pratter.

I say for the RECORD again that because of the work Senator SPECTER has done with our bipartisan nominating commission we have in the State of Pennsylvania, we have been able to get Republicans and Democrats—I underscore Republicans and Democrats—nominated by this President.

When there are two Republican Senators, we have a rule in Pennsylvania that the party in power—that means the President—will nominate three to his party to every one in the minority party, irrespective of, as I said before, the fact that we may have two Republican Senators and a Republican President. Out of every four nominees, we still nominate one Democrat to fill the bench to make sure there is a proper balance on the court, and even to some degree some little ideological balance on the court.

We have been successful in getting soon to be 20 nominees approved by the Senate, which I think is a fairly admirable record if you consider the contentious attitude the judicial nominees have had to work through in the committee as well as in the Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I speak on behalf of a judicial nominee for the Northern District of Alabama, Virginia E. Hawkins. I join with Senator Richard Shelby of my State in moving her nomination forward with great enthusiasm. She is a woman of impeccable academic credentials, high in integrity, great legal experience and skill. She will do a great job on the Federal bench.

She has a strong academic background. She graduated from the University of Alabama in 1974 as an undergraduate. She attended Agnes Scott College before that. Then she attended the University of Virginia Law School in 1977. She began her career as an associate attorney at the law firm of Lange, Simpson, Robinson & Sommerville in Birmingham, AL. That is one of the great law firms in the State. The fact she was hired there in itself is a good commendation of what they thought were good legal skills and good judgment. She certainly would not have been selected at that firm had they not thought so at the time.

She had at that firm a broad civil practice, including appellate matters, tax and estate planning, business dispute resolution, and planning in labor disputes. These things come up in Federal court, also.

She left the firm after 2 years to join the law firm of Taft, Stettinius & Hollister in Washington, DC, where she established the firm's intellectual property practice and handled complicated trademark matters. It is a fine law firm in Washington for her to be part of.

In 1991, however, she and her husband decided to return to her home of Anniston, AL, and to form the firm of Campbell & Hopkins where she is currently a partner.

Over the past 12 years she developed a broad civil practice, including litigation, tax and estate planning and administration, business dispute resolution, and planning intellectual property cases.

Simply stated, Virginia Hopkins has a number of career, academic, and professional achievements. Her experience will be an asset to the bench of the Northern District of Alabama.

I know her children now are at the age of graduating from high school. She felt the need to come back to her roots to raise those children in the right way. Now she is so excited about the opportunity to serve her country and her Nation and the rule of law as a Federal judge. It is exciting to talk to her. It makes me pleased every time I do, to see how excited she is about this opportunity. I believe she is going to do a terrific job.

I know Senator SHELBY agrees with that. In fact, he propounded her nomination from the beginning. I know he believes in every way she will be a superb Federal judge. I am glad to see the senior Senator from Alabama in the Senate today, a distinguished lawyer in his own right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I am pleased that we will soon be voting on the nomination of Virginia Hopkins for the United States District Court for the Northern District of Alabama. This nomination has been on the calendar for a number of months now and I am pleased that we are finally going to have an up or down vote.

Virginia Hopkins is a highly qualified candidate. She will be an important addition to the Federal bench. Like others who know Virginia, I have a high regard for her intellect and her integrity. She is a woman of the law who understands and respects the constitutional role of the judiciary and, specifically, the role of the federal courts in our legal system.

Having been a practicing attorney for more than a quarter century, Virginia has concentrated her legal practice in wills and estate planning, as well as intellectual property law and civil litigation. Virginia has a strong record of trying cases in both the federal and state courts for a broad range of individual and corporate clients. Without question, I believe it is fair to say that Virginia Hopkins is an experienced and skilled attorney.

In addition to being a devoted wife and mother of two children and a skilled attorney, Virginia is also active in her community. She has served on the board of the United Way of East Central Alabama, while also remaining active in her church. She is a graduate of the University of Alabama and also Virginia Law School.

Again, I am pleased to support the nomination of Ms. Virginia Hopkins to the United States District Court for the Northern District of Alabama. I am confident that she will serve honorably and that she will apply the law with impartiality and fairness. I encourage my colleagues to join with me in supporting her nomination as I believe that she will serve our nation with the honor and dignity required of the federal judiciary.

I yield the floor.

Mr. REID. How much time remains for the majority and minority?

The PRESIDING OFFICER. The majority has 1 minute 44 seconds and the minority has 11 minutes.

Mr. REID. Does the distinguished Senator from Pennsylvania wish us to yield part of our time?

Mr. SPECTER. Mr. President, I would need 5 minutes to speak on behalf of the judicial nominee.

Mr. REID. I yield 5 minutes to the Senator from Pennsylvania of the time of the minority.

Mr. SPECTER. I thank my distinguished colleague from Nevada for yielding the time. I have sought recognition to urge my colleagues to confirm Gene E.K. Pratter to the U.S. District Court for the Eastern District of Pennsylvania. Ms. Pratter comes to this position with a very distinguished academic career, having earned honors at Stanford University and her law degree from the University of Pennsylvania in 1975.

She is a partner in the prestigious law firm in Philadelphia of Duane Morris where she serves not only as a partner but as general counsel to the firm for their own matters.

She has authored many very distinguished legal writings. She has served in many professional capacities as a judge pro tempore for the State courts, Court of Common Pleas of Philadelphia County. She has been a mediator for the U.S. District Court for the Eastern District of Pennsylvania, so she has had extensive ancillary experience before becoming a Federal judge.

I have had the opportunity to know Ms. Pratter personally for about a decade and can personally attest to her intelligence and demeanor. She will be an outstanding judge.

She had been recommended to the President by Senator SANTORUM and myself after she received approval from a nonpartisan judicial selection commission which advises Senator SANTORUM and I as to judicial recommendations to the President. This is a group which has functioned for all of my tenure in the Senate, going back 24 years when Senator Heinz and I had this panel in existence. It has been carried forward. As I say, it is in existence now by appointment from Senator SANTORUM and myself.

I am especially pleased to find this confirmation occurring today. We had to postpone the induction ceremony for Ms. Pratter some time ago when there had been some disagreements as to how we would proceed. We had hoped for this confirmation last week, and, of course, it has been delayed because of the ceremonies involving the funeral and other matters related to former President Reagan. But I am especially pleased to have it concluded today because a swearing-in has been scheduled in Philadelphia for Friday at 2 o'clock. So Ms. Pratter, who I am sure is watching, and others will know that the commitment can go forward. That is in anticipation of a favorable vote, which I think is virtually certain to be forthcoming.

Mr. President, it would take a great deal of time to give the details of Ms. Pratter's extensive biographical résumé and accomplishments, so I ask unanimous consent that it be printed in the RECORD.

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

GENE E.K. PRATTER, PARTNER AND GENERAL COUNSEL

Gene E.K. Pratter is a partner in and General Counsel of Duane Morris LLP. She frequently represents clients in commercial litigation and professional liability and licensing matters. Ms. Pratter has represented licensed law, financial and other professionals before state and national licensing boards and in litigation throughout the country in federal and state courts.

A 1975 graduate of the University of Pennsylvania Law School and an honors graduate of Stanford University, Ms. Pratter is a member of the American Bar Association's Litigation Section and the Philadelphia Bar Association's Committees on Professional Responsibility and Professional Guidance, of which she was chair from 2000 through 2001. In addition, she is a member of the Pennsylvania Bar Association's Women in the Profession Committee. Ms. Pratter served as the co-chair of the ABA Litigation Section's Committee on Ethics and Professionalism and recently concluded her tenure as the co-chair of the Section's Task Force on the Independent Lawyer.

A member of the University of Pennsylvania's American Inns of Court, she is the author of a number of articles concerning ethics and professional conduct and has presented many programs for practitioners on those and other subjects. Ms. Pratter frequently serves as an expert witness and advises lawyers and law firms concerning professional responsibility and professional liability matters, and she has overseen legal issues for Duane Morris itself for a number of years while also holding the position of vice-chair of the firm's Trial Department. She has also been named as a Judge Pro Tem in the Philadelphia Court of Common Pleas and a mediator for the U.S. District Court for the Eastern District of Pennsylvania. Ms. Pratter was an Overseer of the University of Pennsylvania Law School from 1993 to 1999. She is active in numerous professional and community associations.

AREAS OF PRACTICE

Alternative Dispute Resolution;
Commercial and Real Estate Litigation;
Employment Contract Litigation;
Insurance Coverage Litigation;
Professional and Business Ethics Counseling and Litigation;
Professional Liability Litigation—Accountants, Actuaries, Architects, Attorneys, Brokers, Engineers, Fiduciaries, Insurance Professionals, Management Consultants, Title Insurers;
RICO Litigation;
Securities Litigation;
Reinsurance Litigation.

PROFESSIONAL ACTIVITIES

American Bar Association—Section of Litigation, Co-Chair, Ethics and Professional Responsibility Committee, 1994–1998, Co-Chair, Task Force on the Independent Lawyer, 1995–present, Commission on Women in the Profession, Tort and Insurance Practice

Section, Business Law Section, Center for Professional Responsibility;

Pennsylvania Bar Association—Civil Litigation Section, Education Law Section, Mentor, State Civil Committee, Women in the Profession Committee;

Philadelphia Bar Association—Professional Responsibility Committee, Chair, Professional Guidance Committee, Committee on Women in the Profession;

Association of Professional Responsibility Lawyers;

Defense Research Institute;

Pennsylvania Defense Institute;

University of Pennsylvania Law School Inn of the American Inns of Court;

Federalist Society;

St. Thomas More Society.

ADMISSIONS

Pennsylvania;

United States Court of Appeals for the Third Circuit;

United States District Court for the Eastern District of Pennsylvania.

EDUCATION

University of Pennsylvania Law School, J.D., 1975.

Mr. SPECTER. Mr. President, I again thank my colleague from Nevada and yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

AMENDMENT NO. 3183

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Smith amendment No. 3183 to S. 2400.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

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

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 114 Leg.]

YEAS—65

Akaka	Breaux	Conrad
Alexander	Byrd	Corzine
Allen	Campbell	Daschle
Baucus	Cantwell	Dayton
Bayh	Carper	DeWine
Bennett	Chafee	Dodd
Biden	Clinton	Dorgan
Bingaman	Coleman	Durbin
Boxer	Collins	Edwards
Ensign	Leahy	Reid (NV)
Feingold	Levin	Rockefeller
Feinstein	Lieberman	Sarbanes
Graham (FL)	Lincoln	Schumer
Gregg	Lugar	Smith
Harkin	Mikulski	Snowe
Hollings	Miller	Specter
Inouye	Murkowski	Stabenow
Johnson	Murray	Stevens
Kennedy	Nelson (FL)	Voinovich
Kohl	Nelson (NE)	Warner
Landrieu	Pryor	Wyden
Lautenberg	Reed (RI)	

NAYS—33

Allard	Domenici	Lott
Bond	Enzi	McCain
Brownback	Fitzgerald	McConnell
Bunning	Frist	Nickles
Burns	Graham (SC)	Roberts
Chambliss	Grassley	Santorum
Cochran	Hagel	Sessions
Cornyn	Hatch	Shelby
Craig	Hutchison	Sununu
Crapo	Inhofe	Talent
Dole	Kyl	Thomas

NOT VOTING—2

Jeffords	Kerry

The amendment (No. 3183) was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, hatred and violence are not traditional values and they are not American values. Vicious crimes tear at the very fabric of our society and should be prosecuted to the fullest extent of the law.

Sixty-five Senators—including 18 Republican Senators—voted today to expand hate crimes protection to all Americans. The overwhelming support for the hate crimes amendment is a victory for basic fairness and for victims' rights.

This bipartisan amendment provides more help for local law enforcement—and tougher penalties for people who commit hate crimes. It also expands hate crimes protections to include gender, sexual orientation and disability. These are all reasonable changes that are supported by the overwhelming majority of Americans and by law enforcement agencies across the country.

Those who say these protections are unnecessary because they protect only a small number of people miss the point. Even one beating, one murder, or one assault is unacceptable. Hate crimes diminish all Americans.

This is not the first time the Senate has voted to strengthen existing federal protections against hate crimes. I brought these same protections to the Senate floor when I was majority leader in 2002. They were first introduced in 1997 and passed by the Senate in 1999. In 2000, majorities in both the House and Senate supported hate crimes legislation—only to have the provisions stripped out behind the closed doors of a conference committee at the insistence of the far right.

We urge the far right to end their efforts to prevent these modest but important protections from being signed into law. We will continue to press this case until all Americans enjoy equal protection from hate crimes.

Mr. BYRD. Mr. President, today, I voted in support of an amendment to the Department of Defense Authorization Act to establish that hate crimes based on race, color, religion, and national origin are prohibited at all times—not only when a person is involved in certain federally protected activities as is the case under existing law. The legislation I voted to enact today for the first time also prohibits hate crimes based on three additional categories, meaning a person's actual or perceived disability, gender, or sexual orientation, so long as the incident has a demonstrable tie to interstate trade.

The legislation voted on today is different than the hate crimes legislation I opposed in June 2000 in several significant ways. Primarily, it includes stronger safeguards to ensure that the States continue to take the lead in prosecuting hate crimes. The language of the amendment makes it clear, though, that the Federal Government can prosecute a hate crime at the Federal level in circumstances where, for example, the State does not have jurisdiction or refuses to take jurisdiction over the crime.

In June 2002, I voted in support of an amendment nearly identical to the hate crimes legislation approved today. Then, and today, I approached the Senate leadership about adding to the legislation language that would include age as a protected category, so that crimes directed against the elderly and children could also be considered hate crimes under this law. Defining age as an additional protected category in the law would also give State and local law enforcement officials new tools to provide technical, forensic, prosecutorial, and other assistance beneficial to prosecuting hate crimes against the elderly and children.

Unfortunately, the managers of the hate crimes legislation declined to accept my suggestion of defining age as being an additional protected category under the bill, but I pledge to continue to do all that I can to make certain that the elderly and children are provided all protections possible to ensure their safety, and to make certain that those who perpetrate hate crimes against them receive suitable punishment.

EXECUTIVE SESSION

NOMINATION OF VIRGINIA E. HOPKINS TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. The Senate will now proceed with executive session to consider Executive Calendar No. 563, which the clerk will report.

The legislative clerk read the nomination of Virginia E. Hopkins, of Alabama, to be United States District Judge for the Northern District of Alabama.

The PRESIDING OFFICER. There will be 2 minutes of debate equally divided on the nomination.

Mr. WARNER. Mr. President, I ask unanimous consent that each of the next three votes be 10 minutes so we can return to the Defense bill.

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

The Senator from Utah.

Mr. HATCH. Mr. President, I am prepared to yield back all of my time on the three judges. I ask unanimous consent that all time be yielded back.

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

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Virginia E. Hopkins, of Alabama, to be United States District Judge for the Northern District of Alabama? The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 115 Ex.]

YEAS—98

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (FL)	Reed
Bunning	Graham (SC)	Reid
Burns	Grassley	Roberts
Byrd	Gregg	Rockefeller
Campbell	Hagel	Santorum
Cantwell	Harkin	Sarbanes
Carper	Hatch	Schumer
Chafee	Hollings	Sessions
Chambliss	Hutchison	Shelby
Clinton	Inhofe	Smith
Cochran	Inouye	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	

NOT VOTING—2

Jeffords	Kerry

The nomination was confirmed.

NOMINATION OF RICARDO S. MARTINEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Ricardo S. Martinez, of Washington, to be United States District Judge for the Western District of Washington.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BURNS). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I wonder if I could address the Senate with regard to the schedule.

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

Mr. WARNER. We are making good progress on this bill. We have indications of at least four amendments that will be worked on, part this evening and part in the early morning, that could result in three to four votes. We would like to lead off following the established time for morning business, which I understand may be some 30 minutes, at approximately 10 o'clock with debate with the Senator from Connecticut, Mr. DODD, 15 minutes on each side, followed by a rollcall vote. That would be followed thereafter by Senator LEAHY. We are not certain exactly what time. That will require approximately 2 hours equally divided. We have the Bunning amendment which will be brought up tomorrow. And tonight we will lay down an amendment by Senator REED on end strength. We will start that amendment tonight. There are colleagues on both sides who will want to address that tomorrow.

We will order this evening the final order of these amendments in sequence. If there is any other Senator desiring to move forward with an amendment tomorrow, I urge that Senator to address my colleague or myself.

Mr. REID. Will the Senator yield?

Mr. WARNER. Yes.

Mr. REID. It is my understanding that tonight, when we get to the bill, the junior Senator from Idaho is going to lay down an amendment; is that right?

Mr. WARNER. My understanding is he wishes to do that tomorrow where we can get a unanimous consent.

Mr. REID. That is the best way to proceed.

Mr. WARNER. We recognize when the votes are concluded, Senator REED would lay down his amendment for discussion, we would then do cleared amendments, and that will conclude the actions on this bill for today. When the leadership decides on the opening of the Senate tomorrow, we have 30 minutes for morning business.

Mr. REID. We need half an hour on our side. I indicated to Senator LEVIN we would be happy to waive morning business on Thursday, but we would like a half hour on our side tomorrow.

Mr. FRIST. Mr. President, if the Senator would yield.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. If you need 30 minutes in morning business, we would like it equally divided. Because we have such a full day tomorrow, I want to have this first vote at 10 o'clock. We would be happy to come at 9 o'clock in the morning, you take 30 minutes, or we will divide the hour 30–30.

Mr. REID. That is totally appropriate.

I say through the Chair, on our side, Senator DURBIN will offer the next amendment, not Senator REED. Our amendment will be Senator DURBIN.

Mr. LEVIN. I understand that Senator DURBIN, if he could, prefers to lay it down tomorrow, and Senator REED can lay his amendment down.

Mr. WARNER. We have Senator REED tonight. We will accommodate Senator DURBIN tomorrow with 30 minutes equally divided.

Mr. LEAHY. Mr. President, if I might ask the distinguished senior Senator from Virginia, as I understand it, my amendment is actually pending. There are a number pending, but my understanding is the distinguished Senator from Virginia will protect me for a block of time.

Mr. WARNER. That is correct.

Mr. LEAHY. So we can debate and vote.

Mr. WARNER. Two hours equally divided at a time mutually agreeable, followed by a vote.

Mr. LEAHY. Good enough for me.

Mr. WARNER. We will incorporate this at the conclusion tonight in a UC. I thank the Presiding Officer, and I thank Members.

Senator TALENT, also, will be recognized tonight to lay down his amendment. We will debate that and then look for a vote, if necessary, tomorrow.

Any other Senators desiring to be heard on amendments? Now is a good time.

If not, I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ricardo S. Martinez, of Washington, to be United States District Judge for the Western District of Washington? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 116 Ex.]

YEAS—98

Akaka	Brownback	Collins
Alexander	Bunning	Conrad
Allard	Burns	Cornyn
Allen	Byrd	Corzine
Baucus	Campbell	Craig
Bayh	Cantwell	Crapo
Bennett	Carper	Daschle
Biden	Chafee	Dayton
Bingaman	Chambliss	DeWine
Bond	Clinton	Dodd
Boxer	Cochran	Dole
Breaux	Coleman	Domenici

Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—2

Jeffords
Kerry

The nomination was confirmed.

NOMINATION OF GENE E. K. PRATTER TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Gene E. K. Pratter, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Gene E. K. Pratter, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania. The clerk will call the roll.

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

The PRESIDING OFFICER. Are there any other Senators in the chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 117 Ex.]

YEAS—98

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—2

Kerry
Jeffords

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

Mr. WARNER. Mr. President, the Senator from Connecticut wants to modify an amendment at the desk. I suggest he lead off. The Senator from Missouri wishes to speak for about 5 or 6 minutes, the Senator from Rhode Island for whatever time he may wish, 5 or 10 minutes, and then Senator DURBIN also would like to speak. So, Mr. President, is that an order which is agreeable to my colleagues?

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

Mr. WARNER. Of course, there will be no more votes tonight. We do anticipate a very active day tomorrow, and the leadership is in the process of working out the sequencing of events tomorrow.

Mr. DODD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 3313, the amendment by the Senator from Connecticut.

AMENDMENT NO. 3313, AS FURTHER MODIFIED

Mr. DODD. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. WARNER. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3313), as further modified, is as follows:

On page 195, between lines 10 and 11, insert the following:

SEC. 868. PROHIBITIONS ON USE OF CONTRACTORS FOR CERTAIN DEPARTMENT OF DEFENSE ACTIVITIES.

(a) PROHIBITION ON USE OF CONTRACTORS IN INTERROGATION OF PRISONERS.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), the use of contractors by the Department of Defense for the interrogation of prisoners, detainees, or combatants at any United States military installation or other installation under the authority of United States military or civilian personnel is prohibited.

(2)(A) During fiscal year 2005, the President may waive the prohibition in paragraph (1) with respect to the use of contractors to provide translator services under that paragraph if the President determines that no United States military personnel with appropriate language skills are available to provide translator services for the interrogation to which the waiver applies.

(B) The President may also waive the prohibition in paragraph (1) with respect to any other use of contractors otherwise prohibited by that paragraph during the 90-day period beginning on the date of the enactment of this Act, but any such waiver shall cease to be effective on the last day of such period.

(3) The President shall, on a quarterly basis, submit to the appropriate committees of Congress a report on the use, if any, of contractors for the provision of translator services pursuant to the waiver authority in paragraph (2)(A).

(b) PROHIBITION ON USE OF FUNDS.—No funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the utilization of contractor personnel in contravention of the prohibition in subsection (a), whether such funds are provided directly to a contractor by a department, agency, or other entity of the United States Government or indirectly through a permanent, interim, or transitional foreign government or other third party.

(c) PROHIBITION ON TRANSFER OF CUSTODY OF PRISONERS TO CONTRACTORS.—No prisoner, detainee, or combatant under the custody or control of the Department of Defense may be transferred to the custody or control of a contractor or contractor personnel.

(d) RECORDS OF TRANSFERS OF CUSTODY OF PRISONERS TO OTHER COUNTRIES.—(1) No prisoner, detainee, or combatant under the custody or control of the Department of Defense may be transferred to the custody or control of another department or agency of the United States Government, a foreign, multinational, or other non-United States entity, or another country unless the Secretary makes an appropriate record of such transfer that includes, for the prisoner, detainee, or combatant concerned—

(A) the name and nationality; and

(B) the reason or reasons for such transfer.

(2) The Secretary shall ensure that—

(A) the records made of transfers by a transferring authority as described in paragraph (1) are maintained by that transferring authority in a central location; and

(B) the location and format of the records are such that the records are readily accessible to, and readily viewable by, the appropriate committees of Congress.

(3) A record under paragraph (1) shall be maintained in unclassified form, but may include a classified annex.

(e) REVIEW OF UNITED STATES POLICY ON USE OF CONTRACTORS IN COMBAT OPERATIONS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Secretary's review of United States policy on the use of contractors in combat operations.

(2) The report under paragraph (1) shall identify and review all current statutes, regulations, policy guidance, and associated legal analyses relating to the use of contractors by the Department of Defense, and by other elements of the uniformed services, in routine engagements in direct combat on the ground, including any prohibitions and limitations on the use of contractors in such engagements.

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services, Foreign Relations, and the Judiciary of the Senate and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services, International Relations, and the Judiciary of

the House of Representatives and the Permanent Select Committee on Intelligence of the House of Representatives.

Mr. DODD. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be added as a cosponsor to Senator DODD's modified amendment.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator CONRAD be added as a cosponsor to amendment No. 3192 which was adopted.

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

FAIRNESS IN PUBLIC-PRIVATE COMPETITIONS

Mr. KENNEDY. Mr. President, I commend Chairman WARNER and Senator LEVIN for working with Senator CHAMBLISS and me to reach a worthwhile bipartisan agreement on this amendment to produce greater fairness in public-private competitions. We face great challenges on national security and national defense in these times. We are doing all we can to meet the needs of our armed forces, and we are proud of their service to our country. The Federal civilian employees of the Department of Defense deserve our strong support, too.

The rules put in place last May by the Office of Management and Budget to implement public-private competition reforms in the Federal Government, including the Department of Defense, are the most sweeping changes in half a century. These rules have been controversial, and Congress has passed important protections over the last year to ensure that competitions to privatize Federal work are fair.

Last year, in the Department of Defense Appropriations Act, a bipartisan Congress guaranteed Federal employees the opportunity to demonstrate that they can do the work better and for a lower cost than private contractors. The fair competition amendment will make these provisions permanent, guaranteeing the use of the most efficient organizations in both streamlined competitions and other A–76 competitions at the Department of Defense. The amendment also reduces the incentive for private contractors to deny health benefits or provide inadequate benefits. Forty-four million Americans are uninsured today, and the cost of health insurance premiums have soared by 43 percent over the last 3 years. Under this amendment, if contractors offer inferior health benefits, comparative savings in health costs will not be counted in assessing their bids.

The amendment corrects a major defect in the OMB rules, which prevent Federal employees form competing effectively for a new work or work conducted by private contractors. The administration opposed a similar amendment in the House that established a pilot program. This amendment addresses the administration's specific concerns about the pilot project, while establishing a process for allowing and encouraging Federal employees to compete for new work and work currently performed by contractors.

The amendment also requires the inspector general to determine whether the Department of Defense has the infrastructure necessary to conduct public-private competitions and administer service contracts.

This amendment deals primarily with competitions in the Department of Defense. We know there is also more work to be done with respect to other Federal agencies.

Given the importance of this issue to my colleagues and me, we will be closely monitoring public-private competitions at the Department of Defense to ensure compliance with the current rules, to improve the law, and to pursue further legislative solutions to ensure fair competition. As we expand the Nation's military budget, we must see that taxpayers and our men and women in uniform are obtaining all of the benefits possible, and I hope very much that Chairman WARNER and Senator LEVIN will retain this important amendment in the conference report.

Mr. CHAMBLISS. I appreciate the hard work of our chairman and ranking member in working with Senator KENNEDY and to approve the fair competition amendment.

The amendment addresses a number of issues about which I am very concerned. One of the key issues is the ability of civilian employees to have the opportunity to compete for new work or work currently performed by contractors. This amendment would encourage the Department of Defense to level the playing field in these areas, improve efficiency, and protect government employees' ability to perform critical skills in key areas. And it does so in a way that addresses the concerns expressed by the administration in its Statement of Administration Policy.

Federal employees should compete in defense of their work, unless national security dictates otherwise. Direct conversion, giving work performed by Federal employees to contractors without competition, disservices Federal employees and taxpayers. The OMB Circular A–76 allows for direct conversions with OMB's approval. But there is evidence that agencies may be undertaking direct conversions without OMB's approval. This amendment ensures that for DoD, the largest agency and the one that does the most contracting out, there will be no direct conversions of any functions performed by more than ten employees, absent the invocation by the Secretary of Defense of a national security waiver. We have also included strong language in the amendment to close loopholes by which DoD could break up functions so that they involve ten or fewer employees or arbitrarily designate the work as new in order to get around this requirement.

Federal employees required to undergo public-private competitions should be able to submit their most competitive bids through the most efficient organization process. This amendment establishes such a requirement for all functions performed by more than ten employees.

Due to the significant costs associated with conducting competitions, contractors should be required to demonstrate that they will be marginally more efficient than Federal employees before taking away work performed by Federal employees. This amendment requires a minimum cost differential for all functions performed by more than ten employees of 10 percent of $10 million, whichever is smaller.

Privatization reviews should be predicated on agencies' capacity to perform those reviews and then satisfactorily administer any resulting service contracts. Our amendment ensures through its Inspector General reporting requirement that the Congress will know whether DoD has the capacity to conduct the privatization reviews required of it by OMB over the next several years.

I am pleased that this amendment has been accepted by the Senate and look forward to working with my colleagues during conference to include it in law.

Mr. LEVIN. I appreciate the willingness of my colleagues to work with the Chairman and me on this amendment. The amendment addresses a number of important issues that face the Department of Defense's contracting out policies.

For the first time, this amendment would make permanent provisions that require a most efficient organization and a minimum cost differential in almost all competitions. It ensures that contractors do not have incentives to offer inferior health insurance packages as a way to cut costs and make their bids more appealing. And it sets up a process for Federal employees to gain opportunities to conduct new work and work performed by contractors.

The amendment would, on a government-wide basis, put Federal employees and contractors on the same basis with respect to competing to perform new work. Contractors are not required to compete against Federal employees for new work, either under the FAR or A–76. The amendment would eliminate the requirement in A–76 that forces Federal employees to compete for new work or to retain their own work when the scope of that work expands.

Mr. KENNEDY. Given that the one concern identified by OMB in its SAP has been addressed in the amendment, would the Senator anticipate that the amendment will be included in the conference report?

Mr. LEVIN. That is my hope and expectation. I note that the House bill contains a similar provision, so the differences between the two provisions will have to be worked out by the conferees. I commit to working with my colleagues in the conference to ensure that the final language in the conference report achieves the purposes of the amendment.

COMMISSION ON THE FUTURE OF THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE

Mr. BINGAMAN. Mr. President, I would like to discuss section 841 of S. 2400, entitled the Commission on the Future of the National Technology and Industrial Base.

Mr. WARNER. Yes. This Commission will examine our national technology and industrial base as it pertains to the national security of the United States. The Commission will make important recommendations to ensure we maintain our technological leadership in a global economy.

Mr. BINGAMAN. I commend the chairman for his advocacy of this important issue. I would like to make the chairman aware of an effort that has been underway at the National Academy of Sciences.

Mr. WARNER. Will the Senator please describe this effort to me?

Mr. BINGAMAN. Yes. For the past 12 years, the Board on Science Technology and Economic Policy at the National Academies, has been evaluating the effects of globalization on key U.S. Industries such as biotechnology, software, telecommunications, semiconductors, flat panel displays, lighting and heavy manufacturing industries such as steel. The board produced a report in 2000 evaluating the effects of globalization on a subset of these industries. They are now in the process of evaluating the effects of outsourcing and globalization trends over the past 4 years on many of these same industries. Many, if not all, of these industries are important to our defense industrial base. I would like to ask the chairman if he believes it is important for the Commission to review the work of Board on Science Technology and Economic Policy as it undertakes its research.

Mr. WARNER. Yes, I believe it is prudent that the Commission fully utilize the expertise that the Board on Science Technology and Economic Policy has developed in evaluating the trends of globalization and outsourcing on the industries you have just discussed.

Mr. BINGAMAN. I thank the chairman for his time in this matter.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 3251

Mr. TALENT. Mr. President, I have an amendment I wish to offer on behalf of Mr. BOND and myself. It is at the desk. I ask it be called up. It is amendment No. 3251.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. TALENT], for himself and Mr. BOND, proposes an amendment numbered 3251.

Mr. TALENT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of Congress on America's National World War I Museum)

At the end of subtitle G of title X, add the following:

SEC. 1068. SENSE OF CONGRESS ON AMERICA'S NATIONAL WORLD WAR I MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) The Liberty Memorial Museum in Kansas City, Missouri, was built in 1926 in honor of those individuals who served in World War I in defense of liberty and the Nation.

(2) The Liberty Memorial Association, a nonprofit organization which originally built the Liberty Memorial Museum, is responsible for the finances, operations, and collections management of the Liberty Memorial Museum.

(3) The Liberty Memorial Museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the United States and its allies in the World War I years (1914–1918), both on the battlefield and on the home front.

(4) The Liberty Memorial Museum project began after the 1918 Armistice through the efforts of a large-scale, grass-roots civic and fundraising effort by the citizens and veterans of the Kansas City metropolitan area. After the conclusion of a national architectural design competition, ground was broken in 1921, construction began in 1923, and the Liberty Memorial Museum was opened to the public in 1926.

(5) In 1994, the Liberty Memorial Museum closed for a massive restoration and expansion project. The restored museum reopened to the public on Memorial Day, 2002, during a gala rededication ceremony.

(6) Exhibits prepared for the original museum buildings presaged the dramatic, underground expansion of core exhibition gallery space, with over 30,000 square feet of new interpretive and educational exhibits currently in development. The new exhibits, along with an expanded research library and archives, will more fully utilize the many thousands of historical objects, books, maps, posters, photographs, diaries, letters, and reminiscences of World War I participants that are preserved for posterity in the Liberty Memorial Museum's collections. The new core exhibition is scheduled to open on Veterans Day, 2006.

(7) The City of Kansas City, the State of Missouri, and thousands of private donors and philanthropic foundations have contributed millions of dollars to build and later to restore this national treasure. The Liberty Memorial Museum continues to receive the strong support of residents from the States of Missouri and Kansas and across the Nation.

(8) Since the restoration and rededication of 2002, the Liberty Memorial Museum has attracted thousands of visitors from across the United States and many foreign countries.

(9) There remains a need to preserve in a museum setting evidence of the honor, courage, patriotism, and sacrifice of those Americans who offered their services and who gave their lives in defense of liberty during World War I, evidence of the roles of women and African Americans during World War I, and evidence of other relevant subjects.

(10) The Liberty Memorial Museum seeks to educate a diverse group of audiences through its comprehensive collection of historical materials, emphasizing eyewitness accounts of the participants on the battlefield and the home front and the impact of World War I on individuals, then and now. The Liberty Memorial Museum continues to actively acquire and preserve such materials.

(11) A great opportunity exists to use the invaluable resources of the Liberty Memorial Museum to teach the ''Lessons of Liberty'' to the Nation's schoolchildren through on-site visits, classroom curriculum development, distance learning, and other educational initiatives.

(12) The Liberty Memorial Museum should always be the Nation's museum of the national experience in the World War I years (1914–1918), where people go to learn about this critical period and where the Nation's history of this monumental struggle will be preserved so that generations of the 21st century may understand the role played by the United States in the preservation and advancement of democracy, freedom, and liberty in the early 20th century.

(13) This initiative to recognize and preserve the history of the Nation's sacrifices in World War I will take on added significance as the Nation approaches the centennial observance of this event.

(14) It is fitting and proper to refer to the Liberty Memorial Museum as ''America's National World War I Museum''.

(b) SENSE OF CONGRESS.—Congress—

(1) recognizes the Liberty Memorial Museum in Kansas City, Missouri, including the museum's future and expanded exhibits, collections, library, archives, and educational programs, as ''America's National World War I Museum'';

(2) recognizes that the continuing collection, preservation, and interpretation of the historical objects and other historical materials held by the Liberty Memorial Museum enhance the knowledge and understanding of the Nation's people of the American and allied experience during the World War I years (1914–1918), both on the battlefield and on the home front;

(3) commends the ongoing development and visibility of ''Lessons of Liberty'' educational outreach programs for teachers and students throughout the Nation; and

(4) encourages the need for present generations to understand the magnitude of World War I, how it shaped the Nation, other countries, and later world events, and how the sacrifices made then helped preserve liberty, democracy, and other founding principles for generations to come.

Mr. TALENT. Mr. President, I rise today in support of an amendment to designate the Liberty Memorial Museum in Kansas City, MO, as America's World War I Museum. All of us in Missouri are privileged to have such an outstanding museum and memorial to honor those who served during this critical period in our Nation's history.

World War I is, of course, an important part of America's history, and its history ought to be preserved so the generations of the 21st century can understand the role played by the United States in the preservation and advancement of freedom during that crucial time.

The Liberty Memorial Museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the United States and its Allies in the

World War I years, both on the battlefield and on the homefront. It deserves this designation as America's National World War I Museum.

The museum has a truly amazing history. After the guns were silenced in 1918 and the huge celebrations died down, concerned citizens in the United States reflected on the war and the losses sustained. The Liberty Memorial Museum project began after the 1918 armistice through the efforts of a large-scale, grassroots civic and fundraising effort by the citizens and veterans in the Kansas City metropolitan area. In less than 2 weeks, $2.5 million was raised through donations from local citizens. That was in 1918. That gives the Senate some idea of the enormity of the efforts on behalf of this memorial.

After the conclusion of a national architectural design competition, ground was broken in 1921, construction began in 1923, and the Liberty Memorial Museum was open to the public in 1926.

At the dedication on November 1, 1921, the main Allied military leaders spoke to a crowd of close to 200,000 people.

It was the only time in history the leaders of the United States, Belgium, Italy, France, and Great Britain were together at one place. These were the military leaders during World War I and they convened in Kansas City in 1921 to open this museum.

Today, the Liberty Memorial Museum seeks to educate a diverse group of audiences through its comprehensive collection of historical materials, emphasizing eyewitness accounts of the participants on the battlefield and the homefront and the impact of World War I on individuals, then and now. The Liberty Memorial Museum continues to actively acquire and preserve such materials.

The designation of the museum as ''America's National World War I Museum'' is a great opportunity to use the invaluable resources of the Liberty Memorial Museum to teach the lessons of liberty to the Nation's schoolchildren through onsite visits, classroom curriculum development, distance learning, and other educational initiatives.

I am pleased to offer the amendment on behalf of Mr. BOND and myself. I want to thank the chairman and the ranking member for agreeing to include the measure in the underlying bill. It has been cleared on both sides and I look forward to the Senate adding it to this Defense measure.

I yield the floor, and I ask for adoption of the amendment.

Mr. WARNER. Mr. President, the amendment is cleared on both sides.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 3251.

The amendment (No. 3251) was agreed to.

AMENDMENT NO. 3352

Mr. REED. Mr. President, I have an amendment numbered 3352.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Mr. HAGEL, Mr. MCCAIN, Mr. CORZINE, Mr. AKAKA and Mr. BIDEN proposes an amendment numbered 3352.

Mr. REED. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the end strength for active duty personnel of the Army for fiscal year 2005 by 20,000 to 502,400)

On page 59, line 7, strike ''482,400'' and insert ''502,400''.

Mr. REED. Mr. President, it is my intention this evening to spend a few minutes to lay the amendment down and then I presume at the end of the evening, with unanimous consent, I will be given at least an hour of debate tomorrow which I will share with Senators MCCAIN, HAGEL, and others. That is my understanding. I ask the Senator from Virginia if that understanding is correct.

Mr. WARNER. Mr. President, we will work that out along those lines.

Mr. REED. Mr. President, I understand from the chairman that he will offer a second-degree amendment at the appropriate time. At this juncture, I would like to briefly explain the amendment and then have the opportunity to discuss it in more detail tomorrow with my colleague.

Mr. WARNER. Mr. President, I understand it is in order to forward a second-degree amendment to the pending amendment.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

AMENDMENT NO. 3450 TO AMENDMENT NO. 3352

Mr. WARNER. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3450 to amendment No. 3352.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for funding the increased number of Army active-duty personnel out of fiscal year 2005 supplemental funding)

Strike line 2 and insert the following: ''502,400, subject to the condition that the costs of active duty personnel of the Army in excess of 482,400 shall be paid out of funds authorized to be appropriated for fiscal year 2005 for a contingent emergency reserve fund or as an emergency supplemental appropriation''.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. My amendment will increase the end strength of the Army to meet the incredible mission that has been thrust upon them in the wake of the war on terror and the operations in Afghanistan and the operations in Iraq. I believe it is incumbent that we formally increase the end strength of the Army and we incorporate within the Army budget the requirements for these additional soldiers.

At this juncture, the Army is being increased on an emergency basis through supplemental appropriations. I think that is not the appropriate way to do it. I think we have to recognize that the struggles we are engaged in are long term; they are not temporary. We have to have an end strength within the authorization bill that reflects that long-term effort we are engaged in.

I also believe we have to have within the Army budget the baseline established so that if a supplemental is delayed or is not sufficient to cover these additional troops, the Army does not have to go among its own programs and root about and find moneys to pay for these troops.

These troops are necessary. It is expedient that we should in fact engage and correct this discrepancy between the missions and the men and women who are serving our Army so well.

This is a quick glimpse of our soldiers who are committed throughout the world: 310,000 soldiers in 120 countries. The most significant, of course, are operations in Afghanistan and in Iraq. There are 13,000 in Afghanistan and 126,000 in Iraq. There are soldiers all across the globe and I think we all understand the stresses of these operations are wearing our Army down rapidly.

Some of the indications that we have too few troops can be cited very quickly. First, literally a few days ago the Army announced a stop-loss policy that would prevent soldiers from leaving the Army 90 days before their unit deploys into Iraq. We are essentially telling volunteers that they cannot leave at the end of their enlistment. That is an obvious indication we have too few troops.

Second, we are withdrawing troops from Korea. There might be strategic reasons to pull troops out of Korea. There might be logistical reasons. Technology might be aiding them. But, frankly, this is an indication of, again, the shortage of troops within the Army, because we have huge risks in North Korea. This is a regime that has announced they have nuclear weapons. This is a regime that has been involved in on-and-off negotiations with us for a matter of many months to see if we can resolve the situation peacefully.

The signal we are sending to the North Koreans, albeit unwittingly, is this is not a major priority; we are actually taking troops away.

When troops are taken away, we may still have the ability to deter the North Koreans from attacking South Korea but, frankly, our mission over there is no longer just deterrence, it is disarmament, and that requires diplomacy backed up by force. We hope diplomacy works, but we are weakening our hand.

One of the most interesting and insightful indications of the shortage of

troops is we are actually beginning to take apart the training infrastructure of the U.S. Army. Recently it was announced that troops from our training centers, the 11th Army Cavalry Regiment, which serves as the op force, the enemy force, in training our units, is being notified for deployment overseas. In addition to that, the 1st Battalion of the 509th Infantry, which acts as the opposition force to train our troops at Fort Polk, LA, is also on notice.

What can be more demonstrative of the shortage of troops than the fact we are, in a sense, dismantling our training structure? That in the long term is going to do great harm to the service. We need more troops.

I am sure those who are opposed to the amendment will say we have authorized in this bill again access to emergency authorization and supplemental funding, but that is not doing it the right way, doing it up front, doing it in a straightforward manner, increasing end strength statutorily, and putting this into the regular budget process.

I hope tomorrow we can debate this bill. I am unaware of the second-degree amendment. I will get with the chairman to see what his language is. I feel very strongly that this is the way to do it, and I am joined in that by my colleagues Senators MCCAIN, HAGEL, CORZINE, AKAKA, BIDEN, and many others who feel very strongly this is the way to do it and it should be done. I hope it will be done tomorrow.

With the expectation and the understanding that we will have at least an hour tomorrow on my side to engage in debate on this issue, at this point I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my good friend from Rhode Island that this has been an issue he has expressed concern about for better than a year or more in the course of our hearings in the Armed Services Committee, where my colleague is a very valuable member. He also draws on his own experience as a distinguished West Point graduate and Army officer himself. He speaks against a background of experience and knowledge.

Yes, the bill at the moment has a provision in it which gives the flexibility to the Secretary of Defense, the Secretary of the Army, and others to increase on a temporary basis—actually we go up to 30,000 if they need it, whereas the Senator from Rhode Island does 20,000. We will work this out tomorrow. But I express two concerns tonight, as we lay down the preliminary record. I pose this question to the Senator from Rhode Island. You do not provide in your amendment any means by which to pay for it; am I not correct?

Mr. REED. The Senator is correct.

Mr. WARNER. Then my next question would be, you know from your experience on the committee that the Department of the Army primarily—it could be it comes from other areas of the defense budget, but the Department of the Army might have to get over $2 billion out of its current budget to meet these added costs. Would that not be correct?

Mr. REED. If I may respond to the chairman, he is quite right about the offset. I have some ideas from where the money could come. It is my feeling it should come from funds outside the Army. I think what we have done is we have increased it, but we haven't offset it by Army programs. So there is the possibility—I hope the likelihood—the offset would come from other programs.

Mr. WARNER. As I think the Senator will see—I think I have sent a copy of my amendment over to him. It is very brief. It just specifies that the funding will come from areas other than the Department of the Army budget or elsewhere in the defense budget. Has the Senator had an opportunity to look at the amendment?

Mr. REED. I have had an opportunity to read the amendment. It seems, in keeping with the Senator's commitment to be constructive and helpful, to be very constructive and very helpful, on first examination.

Mr. WARNER. We will work on this tomorrow. But I think for the purposes of tomorrow's debate, we framed the parameters in which the debate is likely to occur. I am optimistic that we can work this out together. I commend the Senator. He has been a lead, with Senator MCCAIN and others, from the very beginning.

At this point in time, the leadership, tonight, in consultation with Senator LEVIN and myself, will work out the sequence of events tomorrow. The Senator believes he needs a full hour on his side?

Mr. REED. Yes. Myself, Senator HAGEL, and Senator MCCAIN wish to speak.

Mr. WARNER. Fine. I will indicate to the leadership I will not need a full hour to speak to the second-degree amendment and to my concern about the permanency of it. But the reality is I think this will move tomorrow. I thank the Senator.

Mr. President, I see the distinguished Senator from Illinois seeking recognition. It is my hope and expectation we can work this matter out. How much does he wish to address it tonight?

Mr. DURBIN. Mr. President, I say to the chairman, who I respect so much, I agree tomorrow we will take 30 minutes equally divided before the vote on this amendment. My hope this evening is, in the span of perhaps 20 minutes, to give a longer statement so it will not be necessary to repeat it tomorrow and save us some time so we can move more quickly. I know the Senator has been extremely patient.

Mr. WARNER. We have all been patient. I thank the Senator. I think that is very helpful. If the Senator will proceed along those lines, I will be working on the finalization of the unanimous consent request to put in tomorrow. At the conclusion of the Senator's remarks, this amendment will just be among the pending amendments?

Mr. DURBIN. That is correct.

Mr. WARNER. We may be able to work it out tomorrow such that we do not require a recorded vote.

Mr. DURBIN. I might say to the chairman, because of the serious nature of this amendment, I think we will want a recorded vote.

Mr. WARNER. That is the Senator's prerogative.

Mr. DURBIN. I hope we can work on this tomorrow, and I will confer with the chairman on that aspect.

I come to the floor today to offer amendment to the Defense Department authorization bill.

The amendment would reaffirm a very important, long-standing position of our nation: that the United States shall not engage in torture or cruel, inhuman or degrading treatment. This is a standard that is embodied in the U.S. Constitution and in numerous international agreements which the United States has ratified.

The amendment would require the Defense Secretary to issue guidelines to ensure compliance with this standard and to provide these guidelines to Congress. The Defense Secretary would also be required to report to Congress on any suspected violations of the prohibition on torture or cruel, inhuman or degrading treatment. The amendment specifically provides that this information should be provided to Congress in a manner and form that would protect national security.

Let me also explain what this amendment would not do. It would not impose any new legal obligations on the United States. It would not limit our ability to use the full range of interrogation techniques that are outlined in the Army interrogation manual. It would not affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

It would only reaffirm and ensure compliance with our long-standing obligation not to subject detainees to torture or cruel, inhuman and degrading treatment.

The amendment is supported by a broad coalition of organizations and individuals, including human rights organizations like Human Rights Watch and Amnesty International, religious institutions such as the Episcopal Church, and military officers, such as retired Rear Admiral John Hutson.

Admiral Hutson was a Navy Judge Advocate for 28 years and from 1997–2000, he was the Judge Advocate General, the top lawyer in the Navy. In a letter in support of this amendment, he wrote:

> It is absolutely necessary that the United States maintain the high ground in this area and that Congress take a firm stand on the issue. . . . It is critical that we remain steadfast in our absolute opposition to torture and [cruel, inhuman or degrading treatment]. Senator DURBIN's proposed amendment is a critical first step in that regard.

In the aftermath of 9/11, some have called for the United States to abandon this commitment. But President Bush has made it clear that he does not support this position. On June 26, 2003, the International Day in Support of Victims of Torture, the President said:

The United States is committed to the world-wide elimination of torture and we are leading this fight by example. I call on all governments to join with the United States and the community of law-abiding nations in prohibiting, investigating, and prosecuting all acts of torture and in undertaking to prevent other cruel and unusual punishment.

I commend the President for standing behind our treaty obligations. Now the Congress must do no less. The world is watching us. They are asking whether the United States will stand behind its treaty obligations in the age of terrorism. With American troops in harm's way, we need to tell the world and the American people that the United States is committed to treating all detainees humanely.

As we mourn the passing of President Ronald Reagan, we should recall his vision of America as a shining city upon a hill—a model of democracy, freedom and the rule of law that people around the world look to for inspiration. As President Reagan said in his Farewell Address to the Nation:

After 200 years, two centuries, [America] still stands strong and true on the granite ridge, and her glow has held steady no matter what storm. And she's still a beacon, still a magnet for all who must have freedom.

President Reagan was right. Our city upon a hill must hold steady in defense of our principles no matter what storm. Despite the threat of terrorism, we must stand by our opposition to torture and other cruel treatment.

In fact, it was President Reagan who first transmitted the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Senate with his recommendation that the Senate ratify the treaty.

We are in the process of defining our values as a country in the age of terrorism. We need to make it clear that we will not compromise principles that have guided us and other civilized nations for hundreds of years.

The prohibition on torture and other cruel treatment is deeply rooted in our history. In 15th and 16th Century England, the infamous Star Chamber issued warrants authorizing the use of torture against political opponents of the Crown. Supporters of the Star Chamber claimed that torture was necessary to protect the security of the state. Blackstone, the English jurist who greatly influenced the Founding Fathers, said: ''It seems astonishing that this usage of torture should be said to arise from a tenderness to the lives of men.'' Those words still ring true today.

In 1641, the Star Chamber was abolished and the use of torture warrants ended. A prohibition on torture and cruel treatment developed in English common law. The English Bill of Rights of 1689, which served as a model for our Bill of Rights, contained a ban on ''cruel and unusual punishments.''

This history carried great weight with the Framers of our Constitution. During the Constitutional Conventions, Patrick Henry, in a statement that typified the Founders' views, said: ''What has distinguished our ancestors? That they would not admit of tortures, or cruel and barbarous punishment.''

During the Constitutional Convention, George Mason, who is known as ''the Father of the Bill of Rights,'' explained that the 5th Amendment ban on self-incrimination and the 8th Amendment ban of cruel and unusual punishment both prohibit torture and cruel treatment.

Our history makes clear that these principles also guided us during times of war. During the Civil War, President Abraham Lincoln asked Francis Lieber, a military law expert, to create a set of rules to govern the conduct of U.S. soldiers in the field. The Lieber Code prohibited torture or other cruel treatment of captured enemy forces. It became the foundation for the modern law of war, which is embodied in the Geneva Conventions.

In the early twentieth century, the emergence of large police departments in the United States was accompanied by a dramatic increase in the abuse of suspects in police custody. President Hoover appointed the National Commission on Law Observance and Enforcement, also known as the Wickersham Commission, to review law enforcement practices. In 1931, the Commission's findings shocked the nation and permanently transformed the nature of American law enforcement.

The Commission concluded:

The third degree is the employment of methods which inflict suffering, physical or mental, upon a person, in order to obtain from that person information about a crime. . . . The third degree is widespread. The third degree is a secret and illegal practice. When all allowances are made it remains beyond a doubt that the practice is shocking in its character and extent, violative of American traditions and institutions, and not to be tolerated.

The commission catalogued and condemned ''third degree'' methods, including, physical brutality, threats, sleep deprivation, exposure to extreme cold or heat—also known as ''the sweat box''—and blinding with powerful lights and other forms of sensory overload or deprivation.

The commission also discussed practical reasons to reject the ''third degree'':

The third degree involves the danger of false confessions. . . so many instances have been brought to our attention during this investigation that we feel convinced not only of its existence but of its seriousness.

The third degree impairs police efficiency. . . . It tends to make [police] less zealous in the search of objective evidence.

The third degree brutalizes the police, hardens the prisoner against society, and lowers the esteem in which the administration of justice is held by the public. Probably the third degree has been a chief factor in bringing about the present attitude of hostility on the part of a considerable portion of the population toward the police and the very general failure of a large element of the people to aid or cooperate with the police in maintaining law and order.

Over the next two decades, numerous Supreme Court opinions cited the Wickersham Commission report and condemned the use of various third degree methods as unconstitutional.

As the landscape of American policing was being reshaped, the horrific abuses of Nazi Germany began to come to light. This reinforced American opposition to torture and other forms of cruel treatment.

One of the counts in the Nuremberg indictment of Gestapo officials detailed official orders approving the application of ''third degree'' techniques, including ''[a] very simple diet (bread and water)[,] hard bunk[,] dark cell[,] deprivation of sleep[,] exhaustive drilling[,] . . . [and] flogging (for more than 29 strokes a doctor must be consulted)'' as a means of obtaining evidence, or ''information of important facts'' regarding subversion. One of the defenses raised by Gestapo officers was that such actions were necessary to protect against Resistance terrorism.

After World War II, in the aftermath of Nuremberg and the disclosure of Nazi Gestapo tactics, the United States and our allies created a new international legal order based on respect for human rights.

One of its fundamental tenets was a universal prohibition on torture and cruel, inhuman, or degrading treatment. The United States took the lead in establishing a succession of international agreements that ban the use of torture and other cruel treatment against all persons at all times. There are no exceptions to this prohibition.

Eleanor Roosevelt was the Chair of the U.N. Commission that produced the Universal Declaration on Human Rights in 1948. The Universal Declaration states unequivocally, ''No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.''

The United States, along with a majority of countries in the world, is a party to the Geneva Conventions, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, all of which prohibit torture and cruel, inhuman, or degrading treatment.

Army regulations that implement these treaty obligations state:

Inhumane treatment is a serious and punishable violation under international law and the Uniform Code of Military Justice (UCMJ). All prisoners will receive humane treatment without regard to race, nationality, religion, political opinion, sex, or other criteria. The following acts are prohibited: murder, torture, corporal punishment, mutilation, the taking of hostages, sensory deprivation, collective punishments, execution without trial by proper authority, and all cruel and degrading treatment. All persons will be respected as human beings. They will be protected against all acts of violence to include rape, forced prostitution, assault and theft, insults, public curiosity, bodily injury, and reprisals of any kind This list is not exclusive.

Some people may be asking, ''What is, 'cruel, inhuman or degrading treatment.' '' How can the United States be bound by such an uncertain standard?

The United States Senate debated this question before ratifying the International Covenant on Civil and Political Rights and the Torture Convention. In response to this concern, we filed reservations to both of these agreements. A reservation is a statement filed by the Senate that clarifies our obligations under international agreements.

These reservations state that the United States is bound to prevent ''cruel, inhuman or degrading treatment'' only to the extent that that phrase means the cruel, unusual and inhumane treatment or punishment prohibited by the U.S. Constitution. In other words, ''cruel, inhuman or degrading treatment'' is defined by the U.S. Constitution, and the United States is only prohibited from engaging in conduct that is already unconstitutional.

This provides certainty and clarity. In 1990, the Senate Foreign Relations Committee held a hearing on the Torture Convention and an official from the first Bush administration explained the reservation:

> We have proposed this reservation because the terms ''cruel, inhuman or degrading treatment or punishment'' used in this Convention are vague and are not evolved concepts under international law. . . . On the other hand, the concept of cruel and unusual punishment under the United States Constitution is well developed, having evolved through court decisions over a period of 200 years.

The current administration has confirmed that it stands by this reservation. Last year, Defense Department General Counsel William Haynes said:

> ''[C]ruel, inhuman or degrading treatment or punishment'' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States. United States policy is to treat all detainees and conduct all interrogations, wherever they may occur, in a manner consistent with this commitment.

Aside from our legal obligations, there are also important practical reasons for standing by our commitment not to engage in torture or other cruel treatment.

Torture is an ineffective interrogation tactic because it produces unreliable information. People who are being tortured will often lie to their torturer in order to stop the pain.

Resorting to torture and ill treatment of detainees would make us less secure, not more. It would create anti-American sentiment at a time when we need the support and assistance of other countries in the war on terrorism.

Finally, and most importantly, if we were to engage in torture or ill treatment of detainees, we would increase the risk of subjecting members of the Armed Forces to torture if they are captured by our enemies.

The U.S. Army fully recognizes these practical downsides. The Army Field Manual on Intelligence Interrogation states:

> Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear. Revelation of use of torture by U.S. personnel will bring discredit upon the U.S. and its armed forces while undermining domestic and international support for the war effort. It may also place U.S. and allied personnel in enemy hands at a greater risk of abuse by their captors.

As the great American patriot Thomas Paine said: ''He that would make his own liberty secure must guard even his enemy from oppression.''

Sadly, the ''third degree,'' which was condemned by the Wickersham Commission in 1931 and in subsequent Supreme Court decisions, has reemerged in modern times with a new name: ''stress and duress.'' ''Stress and duress'' tactics, which are also known as ''torture lite,'' include extended food, sleep, sensory, or water deprivation, exposure to extreme heat or cold, and ''position abuse,'' which involves forcing detainees to assume positions designed to cause pain or humiliation. ''Stress and duress'' tactics clearly constitute torture or cruel, inhuman, or degrading treatment.

As the Supreme Court explained in Blackburn v. Alabama, a 1960 case:

> [C]oercion can be mental as well as physical . . . the blood of the accused is not the only hallmark of an unconstitutional inquisition. A number of cases have demonstrated, if demonstration were needed, that the efficiency of the rack and the thumbscrew can be matched, given the proper subject, by more sophisticated modes of ''persuasion.''

Let's take one example: sleep deprivation. In Ashcraft v. Tennessee, a 1944 case, the Supreme Court held that a confession obtained by depriving a suspect of sleep and continuously questioning him for 36 hours was involuntarily coerced. For the majority, Justice Hugo Black wrote:

> It has been known since 1500 at least that deprivation of sleep is the most effective torture and certain to produce any confession desired [quoting the Wickersham Commission]. . . . We think a situation such as that here shown by uncontradicted evidence is so inherently coercive that its very existence is irreconcilable with the possession of mental freedom by a lone suspect against whom its full coercive force is brought to bear.

As explained in a recent New York Times article by Adam Hochschild, sleep deprivation was widely used in the Middle Ages on suspected witches—it was called tormentum insomniae. Stalin's secret police subjected prisoners to the ''conveyer belt,'' continuous questioning by numerous interrogators until the prisoner signed a confession. Former Israeli Prime Minister Menachem Begin wrote about his experience with sleep deprivation in a Soviet prison in the 1940's:

> In the head of the interrogated prisoner a haze begins to form. His spirit is wearied to death, his legs are unsteady, and he has one sole desire: to sleep, to sleep just a little. . . . Anyone who has experienced this desire knows that not even hunger or thirst are comparable with it. . . . I came across prisoners who signed what they were told to sign, only to get what the interrogator promised them . . . uninterrupted sleep!

Another example is ''position abuse.'' In 2002, in a case called Hope v. Pelzer, the Supreme Court addressed this issue. Hope, a prisoner, was handcuffed to a ''hitching post'' for seven hours in the sun and not allowed to use the bathroom. The Court held that this violated the 8th Amendment prohibition on cruel and unusual punishment. The Court said:

> The obvious cruelty inherent in this practice should have provided [the prison guards] with some notice that their alleged conduct violated Hope's constitutional protection against cruel and unusual punishment. Hope was treated in a way antithetical to human dignity—he was hitched to a post for an extended period of time in a position that was painful, and under circumstances that were both degrading and dangerous.

In the 1930s, Stalin's secret police forced dissidents to stand for prolonged periods to coerce confessions for show trials. In 1956, experts commissioned by the CIA documented the effects of forced standing. They found that ankles and feet swell to twice their normal size within 24 hours, the heart rate increases, some people faint, and the kidneys eventually shut down.

For many years, the United States has characterized the use of ''stress and duress'' by other countries as ''Torture and Other Cruel, Inhuman and Degrading Treatment.'' The State Department's ''Country Reports on Human Rights Practices,'' which are submitted to Congress every year, have condemned ''beatings,'' ''threats to detainees or their family members,'' ''sleep deprivation,'' ''depriv[ation] of food and water,'' ''suspension for long periods in contorted positions,'' ''prolonged isolation,'' ''forced prolonged standing,'' ''tying of the hands and feet for extended periods of time,'' ''public humiliation,'' ''sexual humiliation,'' and ''female detainees . . . being forced to strip in front of male security officers.''

The Army Field Manual on Intelligence Interrogation characterizes ''stress and duress'' as illegal physical and mental torture. The Manual states that ''acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or an aid to interrogation'' are ''illegal.'' It defines ''infliction of pain through . . . bondage (other than legitimate use of restraints to prevent escape),'' ''forcing an individual to stand, sit, or kneel in abnormal positions for prolonged periods of time,'' ''food deprivation,'' and ''any form of beating,'' as ''physical torture'' and defines ''abnormal sleep deprivation'' as ''mental torture'' and prohibits the use of these tactics under any circumstances.

The Army Field Manual provides very specific guidance about interrogation techniques that may approach the

line between lawful and unlawful actions. Before using a questionable interrogation technique, an interrogator is directed to ask whether ''If your contemplated actions were perpetrated by the enemy against U.S. [prisoners of war], you would believe such actions violate international or U.S. law. . . . If you answer yes . . . do not engage in the contemplated action.''

This is the Army's version of ''the golden rule''—do unto others as you would have them do to you. It is an important reminder that the prohibition on torture and other cruel treatment protects American soldiers as much as it does the enemy. If enemy forces used stress and duress tactics on American soldiers, we would condemn them. We must hold ourselves to the same standard.

The United States is not alone in condemning ''torture lite.'' In Israel, a country that has grappled with terrorism for decades, the Supreme Court held that ''stress and duress'' techniques violate international law and are absolutely prohibited. As the Court explained:

> These prohibitions are ''absolute.'' There are no exceptions to them and there is no room for balancing. Indeed violence directed at a suspect's body or spirit does not constitute a reasonable investigation practice.

For all of these reasons, it is vitally important that the Congress affirm the United States' commitment not to engage in torture or cruel, inhuman or degrading treatment.

Our commitment to principle, even during difficult times, has made America a special country. In the age of terrorism, we may be tempted by the notion that torture is justified. But to sacrifice this principle would grant the terrorists a valuable victory at our expense.

The Israeli Supreme Court has explained:

> Although a democracy must often fight with one hand tied behind its back, it nonetheless has the upper hand. Preserving the Rule of Law and recognition of an individual's liberty constitutes an important component in its understanding of security. At the end of the day, they strengthen its spirit and allow it to overcome its difficulties.

The brutal slaying of Nicholas Berg reminded us that our enemies do not respect any rules in their relentless quest to kill Americans. But that is what distinguishes us from the terrorists we fight. There are some lines that we will not cross. Torture and cruel, inhuman or degrading treatment are inconsistent with the principles of liberty and the rule of law that underpin our democracy.

As President Reagan reminded us, our city upon a hill must stand firm. The eyes of the world are upon us.

I urge my colleagues to support the amendment.

It has been suggested to me by staff that perhaps I would offer the amendment this evening and then ask unanimous consent it be set aside while we work things out with Chairman WARNER and other Senators who are interested in this issue.

If there is no objection, with the understanding that I will not call up the amendment this evening and will wait until a decision from the chairman and the ranking member as to my place in line, I offer the amendment and merely at this point ask it be reported by the clerk.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

AMENDMENT NO. 3386

Mr. DURBIN. I send to the desk amendment No. 3386.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois, [Mr. DURBIN], proposes an amendment numbered 3386.

Mr. DURBIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment)

At the end of subtitle F of title X, insert the following:

SEC. 1055. HUMANE TREATMENT OF DETAINEES.

(a) FINDINGS.—Congress makes the following findings:

(1) After World War II, the United States and its allies created a new international legal order based on respect for human rights. One of its fundamental tenets was a universal prohibition on torture and ill treatment.

(2) On June 26, 2003, the International Day in Support of Victims of Torture, President George W. Bush stated, ''The United States is committed to the world-wide elimination of torture and we are leading this fight by example. I call on all governments to join with the United States and the community of law-abiding nations in prohibiting, investigating, and prosecuting all acts of torture and in undertaking to prevent other cruel and unusual punishment.''.

(3) The United States is a party to the Geneva Conventions, which prohibit torture, cruel treatment, or outrages upon personal dignity, in particular, humiliating and degrading treatment, during armed conflict.

(4) The United States is a party to 2 treaties that prohibit torture and cruel, inhuman, or degrading treatment or punishment, as follows:

(A) The International Covenant on Civil and Political Rights, done at New York December 16, 1966.

(B) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

(5) The United States filed reservations to the treaties described in subparagraphs (A) and (B) of paragraph (4) stating that the United States considers itself bound to prevent ''cruel, inhuman or degrading treatment or punishment'' to the extent that phrase means the cruel, unusual, and inhumane treatment or punishment prohibited by the 5th amendment, 8th amendment, or 14th amendment to the Constitution.

(6) Army Regulation 190-8 entitled ''Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees'' provides that ''Inhumane treatment is a serious and punishable violation under international law and the Uniform Code of Military Justice (UCMJ).... All prisoners will receive humane treatment without regard to race, nationality, religion, political opinion, sex, or other criteria. The following acts are prohibited: murder, torture, corporal punishment, mutilation, the taking of hostages, sensory deprivation, collective punishments, execution without trial by proper authority, and all cruel and degrading treatment.... All persons will be respected as human beings. They will be protected against all acts of violence to include rape, forced prostitution, assault and theft, insults, public curiosity, bodily injury, and reprisals of any kind.... This list is not exclusive.''.

(7) The Field Manual on Intelligence Interrogation of the Department of the Army states that ''acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or an aid to interrogation'' are ''illegal''. Such Manual defines ''infliction of pain through ... bondage (other than legitimate use of restraints to prevent escape)'', ''forcing an individual to stand, sit, or kneel in abnormal positions for prolonged periods of time'', ''food deprivation'', and ''any form of beating'' as ''physical torture'', defines ''abnormal sleep deprivation'' as ''mental torture'', and prohibits the use of such tactics under any circumstances.

(8) The Field Manual on Intelligence Interrogation of the Department of the Army states that ''Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear. Revelation of use of torture by U.S. personnel will bring discredit upon the U.S. and its armed forces while undermining domestic and international support for the war effort. It may also place U.S. and allied personnel in enemy hands at a greater risk of abuse by their captors.''.

(b) PROHIBITION ON TORTURE OR CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—(1) No person in the custody or under the physical control of the United States shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(c) RULES, REGULATIONS, AND GUIDELINES.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (b)(1) by the members of the United States Armed Forces and by any person providing services to the Department of Defense on a contract basis.

(2) The Secretary shall submit to the congressional defense committees the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(d) REPORT TO CONGRESS.—(1) The Secretary shall submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (b)(1) by a member of the Armed Forces or by a person providing services to the Department of Defense on a contract basis.

(2) A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (b)(1).

(e) DEFINITIONS.—In this section:

(1) The term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the 5th amendment, 8th amendment, or 14th amendment to the Constitution.

(2) The term ''Geneva Conventions'' means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(3) The term ''Secretary'' means the Secretary of Defense.

(4) The term ''torture'' has the meaning given that term in section 2340 of title 18, United States Code.

Mr. WARNER. Would the Senator from Illinois clarify this?

Mr. DURBIN. I offered the amendment and asked unanimous consent that it be set aside pending a decision by the chairman and Senator LEVIN and other Senators.

Mr. WARNER. I wonder if the Senator might withhold until Senator REID, with whom I am working tonight, will give me some advice. What we will be doing—Senator REID could draw his up—we are going to incorporate this into the agreement.

The PRESIDING OFFICER. The amendment has already been reported.

Mr. DURBIN. I ask unanimous consent the amendment be set aside until there is an agreement between Senator WARNER, Senator LEVIN, Senator REID, and others as to the time that it may be considered.

Mr. WARNER. I was under the understanding we would do it differently. I have not had a chance to discuss this with Senator LEVIN. I understood you were just going do speak to this and not propose it. What is done, is done.

Mr. DURBIN. I asked unanimous consent to set it aside, and it will not be considered until you, Senator WARNER, and Senator LEVIN say it is appropriate, whatever that time may be.

Mr. WARNER. What was the decision we made with respect to Senator REED?

We have to have some equality of how we are handling these things.

The PRESIDING OFFICER. The Reed amendment has been called up and is now set aside by the Durbin amendment.

Mr. WARNER. This amendment would then have the same status of being a pending amendment.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. I thought by asking unanimous consent that it be set aside, it would not in any way supersede any other Members' rights.

Mr. WARNER. We get so many gatekeeping amendments up here we could encounter difficulty tomorrow morning.

Mr. DURBIN. You have been so cooperative and helpful, I ask unanimous consent that my amendment be withdrawn and I will offer it tomorrow. I want to do whatever the chairman wishes.

Mr. REID. Mr. President, will the distinguished Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. REID. The Senator from Illinois is willing to have his amendment set aside. He is certainly not trying to take advantage of anyone. I think it does not solve our problem if he withdraws his amendment.

Mr. WARNER. I just want to treat—Senator REED was here momentarily, and we worked with him. Anyway, I want to be fair to all Senators.

Mr. REID. We have a queue that is tentatively going to be set up to handle all this tomorrow.

Mr. WARNER. We will work this out tonight, hopefully.

Mr. LEVIN. The Senator from Illinois has indicated—if I could just ask whoever has the floor to yield?

Mr. DURBIN. I yield.

Mr. LEVIN. His amendment will be back in order when the chairman and ranking member so designate it. He is not trying to use his amendment as a gatekeeper. Why don't we just leave it pending and then set it aside?

Mr. WARNER. If he will withdraw it, we can include it in the unanimous consent tonight.

Mr. REID. We do not need to have him withdraw it.

Mr. WARNER. I beg your pardon?

Mr. REID. We do not need to have him withdraw it.

Mr. WARNER. Well, I am going to rely on your assurances.

Mr. REID. Because the Senator from Illinois has said he is not trying to take advantage of anyone, not trying to be a gatekeeper, that it is up to the two managers of the bill when the amendment of the Senator from Illinois is acted upon.

Mr. LEVIN. Mr. President, may I suggest this. If I could have the chairman's attention, if we have a unanimous consent agreement that is entered into tonight, and if we include Senator DURBIN's amendment in that list, that would supersede whatever status that amendment has at this point. Would that be agreeable to everyone?

Mr. WARNER. That is agreeable.

Mr. DURBIN. That is agreeable to me, as well.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am curious, having offered the amendment, whether I need to make a unanimous consent request to make it clear what has been agreed upon?

The PRESIDING OFFICER. No.

Mr. DURBIN. It appears it has become part of the legend and lore of the Senate, and I cannot add anything to it.

Mr. President, I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3167, AS MODIFIED

Mr. WARNER. Mr. President, the Senator from Michigan and myself will now proceed to do some cleared amendments. Domenici amendment No. 3167 was inadvertently approved by the Senate yesterday without a modification that was agreed to by both the majority and minority. I send to the desk a modified amendment No. 3167, as agreed to, as a substitute for the original amendment and ask unanimous consent that it be substituted for the version agreed to yesterday.

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

The amendment (No. 3167), as modified, was agreed to, as follows:

(Purpose: To require a report on the availability of potential overland ballistic missile defense test ranges)

At the end of subtitle C of title X, add the following:

SEC. 1022. REPORT ON AVAILABILITY OF POTENTIAL OVERLAND BALLISTIC MISSILE DEFENSE TEST RANGES.

The Secretary of Defense shall submit to Congress a report assessing the availability to the Department of Defense of potential ballistic missile defense test ranges for overland intercept flight tests of defenses against ballistic missile systems with a range of 750 to 1,500 kilometers.

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

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3395; 3392, AS MODIFIED; 3402, AS MODIFIED; 3346, AS MODIFIED; 3326, AS MODIFIED; 3349, AS MODIFIED; AND 3385, AS MODIFIED, EN BLOC

Mr. WARNER. Mr. President, I send a package of amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Mr. LEVIN. No objection.

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

Is there further debate? If not, without objection, the amendments are agreed to.

The amendments were agreed to, as follows:

AMMENDMENT NO. 3395

(Purpose: to encourage the Secretary of Defense to achieve maximum cost effective energy savings)

On page 195, between lines 10 and 11, insert the following:

SEC. 868. ENERGY SAVINGS PERFORMANCE CONTRACTS.

The Secretary of Defense shall, to the extent practicable, exercise existing statutory authority, including the authority provided by section 2865 of title 10, United States Code, and section 8256 of title 42, United States Code, to introduce life-cycle cost-effective upgrades to Federal assets through shared energy savings contracting, demand management programs, and utility incentive programs.

AMENDMENT NO. 3392, AS MODIFIED

(Purpose: To clarify the duties and activities of the Vaccine Healthcare Centers Network)

On page 147, after line 21, add the following:

SEC. ___. VACCINE HEALTHCARE CENTERS NETWORK.

Section 1110 of title 10, United States Code, is amended by adding at the end the following:

''(c) VACCINE HEALTHCARE CENTERS NETWORK.—(1) The Secretary shall carry out this section through the Vaccine Healthcare Centers Network as established by the Secretary in collaboration with the Director of the Centers for Disease Control and Prevention.

''(2) In addition to conducting the activities described in subsection (b), it shall be the purpose of the Vaccine Healthcare Centers Network to improve—

''(A) the safety and quality of vaccine administration for the protection of members of the armed forces;

''(B) the submission of data to the Vaccine-related Adverse Events Reporting System to include comprehensive content and follow-up data;

''(C) the access to clinical management services to members of the armed forces who experience vaccine adverse events;

''(D) the knowledge and understanding by members of the armed forces and vaccine-providers of immunization benefits and risks.

''(E) networking between the Department of Defense, the Department of Health and Human Services, the Department of Veterans Affairs, and private advocacy and coalition groups with regard to immunization benefits and risks; and

''(F) clinical research on the safety and efficacy of vaccines.

''(3) To achieve the purposes described in paragraph (2), the Vaccine Healthcare Centers Network, in collaboration with the medical departments of the armed forces, shall carry out the following:

''(A)(i) Establish a network of centers of excellence in clinical immunization safety assessment that provides for outreach, education, and confidential consultative and direct patient care services for vaccine related adverse events prevention, diagnosis, treatment and follow-up with respect to members of the armed services.

''(ii) Such centers shall provide expert second opinions for such members regarding medical exemptions under this section and for additional care that is not available at the local medical facilities of such members.

''(B) Develop standardized educational outreach activities to support the initial and ongoing provision of training and education for providers and nursing personnel who are engaged in delivering immunization services to the members of the armed forces.

''(C) Develop a program for quality improvement in the submission and understanding of data that is provided to the Vaccine-related Adverse Events Reporting System, particularly among providers and members of the armed forces.

''(D) Develop and standardize a quality improvement program for the Department of Defense relating to immunization services.

''(E) Develop an effective network system, with appropriate internal and external collaborative efforts, to facilitate integration, educational outreach, research, and clinical management of adverse vaccine events.

''(F) Provide education and advocacy for vaccine recipients to include access to vaccine safety programs, medical exemptions, and quality treatment.

''(G) Support clinical studies with respect to the safety and efficacy of vaccines, including outcomes studies on the implementation of recommendations contained in the clinical guidelines for vaccine-related adverse events.

''(H) Develop implementation recommendations for vaccine exemptions or alternative vaccine strategies for members of the armed forces who have had prior, or who are susceptible to, serious adverse events, including those with genetic risk factors, and the discovery of treatments for adverse events that are most effective.

''(4) It is the sense of the Senate—

''(A) to recognize the important work being done by the Vaccine Healthcare Center Network for the members of the armed forces; and

''(B) that each of the military departments (as defined in section 102 of title 5, United States Code) is strongly encouraged to fund the Vaccine Healthcare Center Network.''.

AMENDMENT NO. 3402, AS MODIFIED

(Purpose: To express the sense of Congress that the elimination of the drug trade in Afghanistan should be a national security priority for the United States, and to require a report on related efforts)

On page 272, after the matter following line 18, insert the following:

SEC. 1055. DRUG ERADICATION EFFORTS IN AFGHANISTAN.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States engaged in military action against the Taliban-controlled Government of Afghanistan in 2001 in direct response to the Taliban's support and aid to Al Qaeda.

(2) The military action against the Taliban in Afghanistan was designed, in part, to disrupt the activities of, and financial support for, terrorists.

(3) A greater percentage of the world's opium supply is now produced in Afghanistan than before the Taliban banned the cultivation or trade of opium.

(4) In 2004, more than two years after the Taliban was forcefully removed from power, Afghanistan is supplying approximately 75 percent of the world's heroin.

(5) The estimated value of the opium harvested in Afghanistan in 2003 was $2,300,000,000.

(6) Some of the profits associated with opium harvested in Afghanistan continue to fund terrorists and terrorist organizations, including Al Qaeda, that seek to attack the United States and United States interests.

(7) The global war on terror is and should remain our Nation's highest national security priority.

(8) United States and Coalition counterdrug efforts in Afghanistan have not yet produced significant results.

(9) There are indications of strong, direct connections between terrorism and drug trafficking.

(10) The elimination of this funding source is critical to making significant progress in the global war on terror.

(11) The President of Afghanistan, Hamid Karzai, has stated that opium production poses a significant threat to the future of Afghanistan, and has established a plan of action to deal with this threat.

(12) The United Nations Office on Drugs and Crime has reported that Afghanistan is at risk of again becoming a failed state if strong actions are not taken against narcotics.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should make the substantial reduction of drug trafficking in Afghanistan a priority in the war on terror;

(2) the Secretary of Defense should, in coordination with the Secretary of State, work to a greater extent in cooperation with the Government of Afghanistan and international organizations involved in counterdrug activities to assist in providing a secure environment for counterdrug personnel in Afghanistan; and

(3) because the trafficking of narcotics is known to support terrorist activities and contributes to the instability of the Government of Afghanistan, additional efforts should be made by the Armed Forces of the United States, in conjunction with and in support of coalition forces, to significantly reduce narcotics trafficking in Afghanistan and neighboring countries, with particular focus on those trafficking organizations with the closest links to known terrorist organizations.

(c) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report that describes—

(1) progress made towards substantially reducing the poppy cultivation and heroin production capabilities in Afghanistan; and

(2) the extent to which profits from illegal drug activity in Afghanistan fund terrorist organizations and support groups that seek to undermine the Government of Afghanistan.

AMENDMENT NO. 3346, AS MODIFIED

(Purpose: To reduce barriers for Hispanic-serving institutions in defense contracts, defense research programs, and other minority-related defense programs)

At the end of subtitle G of title X, add the following:

SEC. 1068. REDUCTION OF BARRIERS FOR HISPANIC-SERVING INSTITUTIONS IN DEFENSE CONTRACTS, DEFENSE RESEARCH PROGRAMS, AND OTHER MINORITY-RELATED DEFENSE PROGRAMS.

Section 502(a)(5)(C) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)(C)) is amended by inserting before the period the following: '', which assurances—

''(i) may employ statistical extrapolation using appropriate data from the Bureau of the Census or other appropriate Federal or State sources; and

''(ii) the Secretary shall consider as meeting the requirements of this subparagraph, unless the Secretary determines, based on a preponderance of the evidence, that the assurances do not meet the requirements''.

AMENDMENT NO. 3326, AS MODIFIED

(Purpose: to clarify the authorities of the Judge Advocates General)

On page 221, between the matter following line 17 and line 18, insert the following:

SEC. 915. AUTHORITIES OF THE JUDGE ADVOCATES GENERAL.

(a) DEPARTMENT OF THE ARMY.—(1) Section 3019(b) of title 10, United States Code, is amended by striking ''The General Counsel'' and inserting ''Subject to sections 806 and 3037 of this title, the General Counsel''.

(2)(A) Section 3037 of such title is amended to read as follows:

"§ 3037. Judge Advocate General, Assistant Judge Advocate General: appointment; duties

''(a) POSITION OF JUDGE ADVOCATE GENERAL.—There is a Judge Advocate General in the Army, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Judge Advocate General's Corps. The term of office is four years, but may be sooner terminated or extended by the President. The Judge Advocate General, while so serving, has the grade of lieutenant general.

''(b) APPOINTMENT.—The Judge Advocate General of the Army shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State or Territory, and who have had at least eight years of experience in legal duties as commissioned officers.

''(c) DUTIES.—The Judge Advocate General, in addition to other duties prescribed by law—

''(1) is the legal adviser of the Secretary of the Army, the Chief of Staff of the Army, and the Army Staff, and of all offices and agencies of the Department of the Army;

''(2) shall direct and supervise the members of the Judge Advocate General's Corps and civilian attorneys employed by the Department of the Army (other than those assigned or detailed to the Office of the General Counsel of the Army) in the performance of their duties;

''(3) shall direct and supervise the performance of duties under chapter 47 of this title (the Uniform Code of Military Justice) by any member of the Army;

''(4) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions; and

''(5) shall perform such other legal duties as may be directed by the Secretary of the Army.

''(d) POSITION OF ASSISTANT JUDGE ADVOCATE GENERAL.—There is an Assistant Judge Advocate General in the Army, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Army who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Assistant Judge Advocate General is four years, but may be sooner terminated or extended by the President. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.

''(e) APPOINTMENTS RECOMMENDED BY SELECTION BOARDS.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Army, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) for appointment as the Assistant Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.''.

(B) The item relating to such section in the table of sections at the beginning of chapter 305 of such title is amended to read as follows:

''3037. Judge Advocate General, Assistant Judge Advocate General: appointment; duties.''.

(b) DEPARTMENT OF THE NAVY.—(1) Section 5019(b) of title 10, United States Code, is amended by striking ''The General Counsel'' and inserting ''Subject to sections 806 and 5148 of this title, the General Counsel''.

(2) Section 5148 of such title is amended—

(A) in subsection (b), by striking the fourth sentence and inserting the following: ''The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate.''; and

(B) by striking subsection (d) and inserting the following:

''(d) The Judge Advocate General, in addition to other duties prescribed by law—

''(1) is the legal adviser of the Secretary of the Navy, the Chief of Naval Operations, and all offices, bureaus, and agencies of the Department of the Navy;

''(2) shall direct and supervise the judge advocates of the Navy and the Marine Corps and civilian attorneys employed by the Department of the Navy (other than those assigned or detailed to the Office of the General Counsel of the Navy) in the performance of their duties;

''(3) shall direct and supervise the performance of duties under chapter 47 of this title (the Uniform Code of Military Justice) by any member of the Navy or Marine Corps;

''(4) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions; and

''(5) shall perform such other legal duties as may be directed by the Secretary of the Navy.''.

(c) DEPARTMENT OF THE AIR FORCE.—(1) Section 8019(b) of title 10, United States Code, is amended by striking ''The General Counsel'' and inserting ''Subject to sections 806 and 8037 of this title, the General Counsel''.

(2) Section 8037 of such title is amended—

(A) in subsection (a), by striking the third sentence and inserting the following: ''The Judge Advocate General, while so serving, has the grade of lieutenant general.''; and

(B) in subsection (c)—

(i) by striking ''General shall,'' in the matter preceding paragraph (1) and inserting ''General,'';

(ii) by redesignating paragraphs (1) and (2) as paragraphs (4) and (5), respectively, and, in each such paragraph, by inserting ''shall'' before the first word; and

(iii) by inserting after paragraph (1) the following new paragraphs:

''(1) is the legal adviser of the Secretary of the Air Force, the Chief of Staff of the Air Force, and the Air Staff, and of all offices and agencies of the Department of the Air Force;

''(2) shall direct and supervise the members of the Air Force designated as judge advocates and civilian attorneys employed by the Department of the Air Force (other than those assigned or detailed to the Office of the General Counsel of the Air Force) in the performance of their duties;

''(3) shall direct and supervise the performance of duties under chapter 47 of this title (the Uniform Code of Military Justice) by any member of the Air Force;''.

(d) EXCLUSION FROM LIMITATION ON GENERAL AND FLAG OFFICER DISTRIBUTION.—Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(9) An officer while serving as the Judge Advocate General of the Army, the Judge Advocate General of the Navy, or the Judge Advocate General of the Air Force is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above major general or rear admiral under paragraph (1) or (2), as the case may be.''.

AMENDMENT NO. 3349, AS MODIFIED

(Purpose: To modify the authority to convey land at Equipment and Storage Yard, Charleston, South Carolina)

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. MODIFICATION OF AUTHORITY FOR LAND CONVEYANCE, EQUIPMENT AND STORAGE YARD, CHARLESTON, SOUTH CAROLINA.

Section 563(h) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 360) is amended to read as follows:

''(h) CHARLESTON, SOUTH CAROLINA.—

''(1) IN GENERAL.—The Secretary may convey to the City of Charleston, South Carolina (in this section referred to as the 'City'), all right, title, and interest of the United States in and to a parcel of real property of the Corps of Engineers, together with any improvements thereon, that is known as the Equipment and Storage Yard and consists of approximately 1.06 acres located on Meeting Street in Charleston, South Carolina, in as-is condition.

''(2) CONSIDERATION.—As consideration for the conveyance of property under paragraph (1), the City shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value of the property conveyed, as determined by the Secretary.

''(3) USE OF PROCEEDS.—Amounts received as consideration under this subsection may be used by the Corps of Engineers, Charleston District, as follows:

''(A) Any amounts received as consideration may be used to carry out activities under this Act, notwithstanding any requirements associated with the Plant Replacement and Improvement Program (PRIP), including—

''(i) leasing, purchasing, or constructing an office facility within the boundaries of Charleston, Berkeley, and Dorchester Counties, South Carolina; and

''(ii) satisfying any PRIP balances.

''(B) Any amounts received as consideration that are in excess of the fair market value of the property conveyed under paragraph (1) may be used for any authorized activities of the Corps of Engineers, Charleston District.

''(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under paragraph (1) and any property transferred to the United States as consideration under paragraph (2) shall be determined by surveys satisfactory to the Secretary.

''(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under paragraph (1) as the Secretary considers appropriate to protect the interests of the United States.''.

AMENDMENT NO. 3385, AS MODIFIED

(Purpose: To exempt procurements of certain services from the limitation regarding service charges imposed for defense procurements made through contracts of other agencies)

On page 163, between lines 19 and 20, insert the following:

''(c) INAPPLICABILITY TO CONTRACTS FOR CERTAIN SERVICES.—This section does not apply to procurements of the following services:

''(1) Printing, binding, or blank-book work to which section 502 of title 44 applies.

''(2) Services available under programs pursuant to section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106–481; 114 Stat. 2187; 2 U.S.C. 182c).

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

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

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I am pleased to be joined by my colleague Senator FEINSTEIN in support of amendment No. 3402 to S. 2400, the Department of Defense Reauthorization bill. We hope this resolution expressing Congress's expectations will encourage the Department to do more to address narcotics trafficking in Afghanistan.

This resolution calls upon the President to make the elimination of drug trafficking in Afghanistan a priority in the global war on terror; encourages the Secretary of Defense to increase cooperation and coordination with the Government of Afghanistan and our allies to assist in providing a secure environment for counterdrug personnel operating in Afghanistan; and calls upon the Armed Forces to work with our allies against the regional illicit narcotics trade.

These are not original observations. In testimony before both committees in both Chambers, several officials from the Department of Defense have affirmed that there is a strong, direct connection between terrorism and drug trafficking. We know from this testimony and other evidence that some of the profits generated by narcotics trafficking support terrorists.

This resolution is needed, because there is some inconsistency between the direction that we are providing to our troops in Afghanistan and the narco-terrorist connection. I do not believe that we will see long-term success in the global war on terror until the financial underpinnings of terrorists are eliminated, and I do not believe that Afghanistan can avoid becoming a narco-state if the drug trafficking there is not addressed. To avoid these potential pitfalls, we must step up our counter-narcotics activities in Afghanistan. I hope the administration, and particularly the Department of Defense, will heed this resolution.

Narcotic trafficking is not only a source of funding for terrorist organizations, but its production poses a threat to the future stability of Afghanistan. President Karzai has stated repeatedly that he believes opium production poses a significant threat to the future of Afghanistan. His concerns are echoed by the United Nations Office on Drugs and Crime, which recently warned that Afghanistan is at risk of again becoming a failed state if strong actions are not taken against narcotics. If we are going to assist the people of Afghanistan in their efforts to create a stable country, we cannot ignore their pleas for greater action against the narco-terrorists operating in the region.

Mr. President, I believe that our current policy in Afghanistan does not square with these observations about the threat that narcotics pose to the future of Afghanistan. Attempts are being made to separate anti-terror operations from anti-drug operations, despite the acknowledged link between the two. We know that drug trafficking is a war industry of terrorism. If we are going to be successful, we must eliminate the financial underpinnings of terrorism just as effectively as the organizations themselves.

Those who sell and trade opium in Afghanistan are narco-terrorists. They support terrorists and insurgents who oppose the legitimate government. By supporting terrorists and insurgents, they become legitimate targets for the Combined Forces Command-Afghanistan. Just as ball bearing factories in Nazi Germany were important military targets during World War II, drug labs, and those who facilitate the drug trade, should also be considered viable military targets as we prosecute the War on Terror.

I believe that the United States should treat narcotics traffickers no different than others suspected of cooperating with terrorists. The connection is real, and cannot be ignored. I urge my colleagues to join us in supporting this resolution.

Mrs. FEINSTEIN. Mr. President, I rise in support of the Grassley-Feinstein amendment, which calls upon the President to make the decimation of the Afghanistan heroin trade one of his highest national security priorities, asked the Defense Department to devote more time, energy and resources to anti-drug efforts in Afghanistan, and asks for a study into whether profits from the illegal drug trade continue to fund terrorists and others who upset the stability of that nation.

Afghanistan has long been the world's major supplier of heroin, providing the global market as much as 80% of all the heroin consumed each year.

This is a grave problem—not just because heroin is a bad thing in and of itself, but because profits from the heroin trade in Afghanistan have historically been funneled, in large part, to terrorists bent on doing America harm or those that aid and protect those terrorists.

Indeed, it has been estimated that millions of dollars—even hundreds of millions of dollars—in drug profits have been funneled to al-Qaida and other terrorist organizations throughout the world. Those organizations, in turn, can use the money to run terrorist training camps; to buy guns, bombs and other supplies; to recruit; and to fund terrorist operations throughout the world.

Needless to say, this is a major problem. If we continue to allow terrorist organizations to rake in hundreds of millions of untraceable dollars, the war on terror is going to go quite poorly for us indeed.

This is not the first time I have raised these concerns. Last May, for instance, I expressed concern that this administration had made a decision to allow warlords and others in Afghanistan to continue to grow poppy and to produce opium, in the hopes of maintaining relationships and alliances with those who were trafficking in drugs. In other words, the administration was essentially turning a blind eye to drug production, in order to work more closely with those who were profiting from it.

This was not acceptable then, and it remains unacceptable now. The very reason we went to Afghanistan—to remove al-Qaida's means of support—will be lost if we continue to allow these drug lords to fund al-Qaida and those that hide them, protect them, fund them and help them in other ways.

More than two years after we went into Afghanistan, we don't have bin Laden. We have not stopped the terrorist attacks. We do not control the countryside in Afghanistan. And now we are standing by while the drug trade flourishes beyond levels experienced even before 9/11.

I know this is not an easy problem to solve. Farmers in Afghanistan, like in many other nation's involved in illegal drug production, often find that growing poppy is far more profitable than the country's other staples—cereals, wheat, barley, rice, and so on.

So combined with Afghanistan's foreboding terrain and chaotic political and security situation, it is not a simple matter to eliminate drug production.

Many farmers survive either solely on poppy production or by growing a mix of legal, and illegal crops.

There is hope—poppy production represents only about 8% of Afghanistan's crop production (in volume). So many farmers do grow alternate crops, and they make a living doing it.

But we need to make better efforts to provide farmers good alternatives; to deter production; and, most importantly, to eradicate the crops on the ground.

Eradicating poppy is not easy—particularly in a nation where the central government has so little control over its distant—and even not-so-distant—provinces.

Only with military assistance can anti-drug operatives go into an area and take out the poppy fields. Some of these warlords have virtual armies at their disposal—helicopters, rocket launchers, you name it. This is not your local marijuana field in someone's backyard. This, truly, is akin to war.

The war in Iraq has certainly hindered the Defense Department's ability to assist in these operations—there is only so much manpower and equipment to go around. This is one reason why so many questioned the advisability of going into Iraq before the job in Afghanistan was finished.

But tough as it may be to solve, this issue is simply too important to ignore, and we cannot wait any longer.

Recent estimates put Afghanistan's poppy production this year at more than 5,000 metric tons—more than 50 percent higher than last year.

Even if the most aggressive current efforts at eradication succeed in every respect, only 25 percent of the crop this year will be destroyed.

This means that no matter what, more heroin will be produced this year

than last. The value of that heroin could easily exceed three billion dollars. Farmers only get about a penny on the dollar. Where is the rest of the money going? Best estimates are that much of it goes to terrorists or their protectors.

This simply cannot continue if we hope to win the war on terror. This amendment calls upon the Defense Department to better assist in protecting drug eradication efforts and to work to disrupt and destroy those who aid terrorist activity through the drug trade.

I urge my colleagues to support this amendment. I yield the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate resume the Defense authorization bill on Wednesday, there be 30 minutes equally divided for debate in relation to the Dodd amendment, No. 3313, as further modified. I further ask that following that time, the Senate proceed to a vote in relation to the amendment, with no amendments in order to the amendment prior to the vote. I further ask that following the disposition of the Dodd amendment, the Senator from Virginia, Mr. WARNER, or his designee, be recognized to offer the next first-degree amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COMMISSION ON THE FUTURE OF THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE

Mr. BYRD. Mr. President, as we are considering the National Defense Authorization Act, I thank my colleagues, Senators WARNER and LEVIN, the Chairman and ranking Member of the Armed Services Committee, for so graciously agreeing to accept an amendment that I and several of my colleagues have proposed to modify Section 841 of that bill to enhance the work of the new ''Commission on the Future of the National Technology and Industrial Base,'' which is being established by this legislation. This amendment is the result of collaboration between myself and Senators SNOWE and KERRY, Chairman and ranking Member of the Committee on Small Business and Entrepreneurship, as well as Senators ALLEN and COLEMAN.

First of all, our amendment will require this new Commission to consider carefully the problem of current or potential shortages of critical technologies in the United States. It will also require the Commission to examine the issue of existing or future shortages of the raw materials that are essential to the production of these technologies.

America's national security continues to be threatened by dwindling supplies of U.S.-made components and raw materials. Our Nation's industrial base can be expected to experience a decline in the production of certain technologies and the raw materials necessary to create them, as more and more small and medium-sized U.S. firms shift their production overseas. To the extent that these firms specialize in the manufacture of unique components, or are ''sole source'' producers of materials needed to supply the U.S. defense industry, their departure from the U.S. market leaves manufacturers of America's critical technologies with a dearth of reliable suppliers.

The amendment that my colleagues and I offer today requires the Commission to examine whether, and in which areas, the United States now suffers, or might suffer in the future, shortages of critical technologies and their raw material inputs. The amendment also accelerates the deadline by which the report must be issued, requiring that it be issued on March 1, 2007, rather than a year later. Further, it requires the Commission to make recommendations addressing these shortages, so that our Nation can attempt to alleviate, ahead of time, any adverse impact that such shortages might have on the national security of the United States.

We cannot wait to discover whether our Nation will be confronted with these shortages. Once they are upon us, it will be too late. If we wait until confronted with the fact that our Nation can no longer access the materials it needs to feed its technological advancement or maintain its industrial base, the consequences could be disastrous. An ounce of prevention is worth a pound of cure, and we hope that by requiring this Commission to examine today possible shortages that could affect our Nation's technology and industrial base tomorrow, we can enhance and protect the national security of the United States.

I would note, in closing, that our amendment will also make certain that representatives of small business can join labor representatives and others associated with the defense industry as members of this new Commission. I ask my colleague from Maine, the distinguished Chair of the Small Business Committee, how exactly will this provision make certain that the Commission has the benefit of obtaining a broad range of diverse opinions drawn from a wide cross-section of America?

Ms. SNOWE. I thank the distinguished Senator from West Virginia for his question. Just like its previous version which I introduced on June 3, this amendment is intended to ensure that small business interests are represented in the Commission's composition and in the subjects of the Commission's activities.

As I stated before, the Commission's activities will be incomplete without taking into account small business contributions to our Nation's defense. The most recent data from the Department of Defense suggests that more work needs to be done to secure small business access to national defense contracts. Representatives of small business contracting concerns would make important contributions to the work of the Commission. In addition, the Commission would benefit from participation by the Chief Counsel for Advocacy of the Small Business Administration or his representative. Congress and President Bush endowed the Chief Counsel's Office of Advocacy with the unique mandate to represent America's small businesses before the agencies of our government. The Chief Counsel's trained staff of economists, analysts, and lawyers would provide much needed perspectives for the Commission deliberations.

I thank Senator BYRD, Chairman WARNER and Senator LEVIN for their work for America's small business. I also wish to thank the esteemed Senators ALLEN, COLEMAN, and KERRY for their support.

Mr. BYRD. I commend the distinguished Chair SNOWE for her tireless efforts on behalf of America's industrial base.

Ms. MIKULSKI. Mr. President, last night the Senate accepted two very important amendments to level the playing field for Federal employees whose jobs are being contracted out. I am so pleased that we agreed to the Kennedy-Chambliss amendment to fix the worst problems with DoD's contracting out process, and the Collins amendment to—at long last—give Federal employees the right to protest contracting out decisions to an independent entity.

DoD is pursuing a political agenda masquerading as management reform. DoD's zeal for privatization costs money, it costs morale, it costs the integrity of the civil service, and now it's costing our reputation in Iraq. I was shocked to hear about about the role of contractors in the appalling abuse of prisoners at Abu Ghraib. DoD is taking contracting out too far. How can you contract out the interrogation of prisoners?

America needs an independent civil service. Our Federal employees are on the front lines every day working hard for America. At a time when we are fighting terrorism and struggling with chaos in Iraq, how does the administration thank DoD employees? By forcing them into unfair competitions. Forcing them to spend time and money competing for their jobs instead of doing their jobs.

Make no mistake. I am not opposed to privatization. In some instances privatization works well. Look at Goddard, in my State of Maryland 3,000 government jobs and 9,000 private contractors. I am proud of them both. What I am opposed to is the Bush administration stacking the deck against Federal employees to pursue an ideologically-driven agenda.

The Kennedy-Chambliss amendment fixes the worst problems with DoD's procedures for contracting out to make competitions more fair for DoD employees. The Kennedy-Chambliss amendment does six things to level the playing field. It guarantees employees the right to submit their own ''best bid'' during a competition. It requires contractors to show that they are actually saving money. It makes sure privatization doesn't come at the expense

of health benefits for employees. It closes loopholes that allow DoD to contract out jobs without a competition. It establishes a process for allowing and encouraging Federal employees to conduct new work and work currently performed by contractors. And it makes sure that DoD has the infrastructure in place to effectively conduct competitions and oversee the contracts.

This amendment is so important. Civilian employees at the Defense Department work hard to support our troops and to protect our country. If we are going to contract out Defense Department work, we need to be very cautious. It's a matter of national security. Can we trust a private company to do the job? What if the company goes out of business? What if it is bought by a foreign company? How do we know a private company will have the same mission—and the same motive as U.S. military personnel?

The Bush administration's rules do just the opposite. They're reckless. They give private contractors the edge—whether they deserve it or not. 75 percent of Federal jobs that were contracted out in 2002 and 2003 were DoD jobs. And DoD is targeting 240,000 more jobs for privatization. More than 20 percent of DoD employees who lost their jobs to contractors never had the chance to compete for their own jobs.

I want to know why the Bush administration is trying to undermine our Federal workforce—pushing a process so clearly stacked in favor of private contractors. Civilian Defense Department employees are not the enemy. Who are these employees? They are the shipbuilders at Naval Academy in Annapolis, they are intelligence analysts, and they are the electricians at the Pentagon—who know every nook and cranny of top secret buildings.

These Federal employees are on the front lines. They lost their lives in the Pentagon on September 11. They are committed to making sure our soldiers are ready to protect us. These men and women are dedicated and duty driven. They are not political strategists. They cannot be bought. Why are some trying to make Federal employees the enemy? They aren't part of the problem, they are part of the solution. I know what Federal employees do, how hard they work. I know they think of themselves first as citizens of the United States of America, second as workers at mission driven agencies.

The way the Defense Department pursues contracting out is irresponsible and dangerous. DoD is pushing contracting out even when it just doesn't make sense, even when it puts our Nation's security at risk, or the integrity of our Armed Forces on the line. They are pushing contracting out even when it costs more to conduct competitions than it saves in the long run.

I know DoD isn't used to holding fair competitions. Look at their track record—no-bid contracts for cronies like Halliburton. But we can't let the Defense Department's zeal for privatization get in the way of the ability of our Armed Forces to carry out their duties. And we can't let them replace our civil service with cronyism and political patronage. That means putting some checks and balances on privatization.

I also want to say a few words about an amendment that Senator COLLINS offered to give Federal employees the right to appeal unfair contracting out decisions to GAO. This legislation is long overdue. Contractors have always been allowed to appeal to GAO or to the Court of Federal Claims when they lose a competition. Yet Federal employees can only appeal within their agency—the same agency that's trying to contract them out. That is unfair.

Giving Federal employees the right to appeal is vital to level the playing field during competitions, to hold agencies accountable for conducting fair competitions, and to make sure taxpayers are getting the best deal.

The Collins amendment is a compromise. It doesn't give employees the exact same rights as contractors. For instance, they can't appeal to the Court of Federal Claims. And it creates hurdles for allowing unions to represent their members in an appeal. I am sick of union busting. I think we can do more for employees. I hope we fix these problems as the process moves forward. But we can't let the perfect be the enemy of the good. I support the Collins amendment because it is a good compromise, and it would—finally—allow employees to appeal when an agency makes a mistake.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

125TH ANNIVERSARY OF COLUMBIA, SOUTH DAKOTA

Mr. DASCHLE. Mr. President, this week marks the 125th anniversary of the settlement of one of my state's oldest towns. Columbia, SD, located in Brown County in the northeastern part of my State, has a long and rich history that represents the spirit of hard work and community that defines what it means to be from South Dakota.

In mid-June, 1879, a group of wagons loaded with supplies arrived at the spot that would one day become Columbia, South Dakota. Under the leadership of Byron M. Smith of Minneapolis, the settlers took advantage of the Elm River's abundant water supply, and began work on the new town. Once the first post office was built and officially recognized, the town of Columbia was born.

Today, residents of Columbia proudly reflect on a 125-year history, and the seemingly endless string of goals they have accomplished—and hardships they have had to endure—along the way. From the establishment of the post office in 1879 to the dam that was built 3 years later—creating Lake Columbia—to the construction of the town's first school, courthouse, and roller-skating rink, Columbia's first decade saw its inhabitants lay the groundwork for the future of the community. More than a century has passed since then, during which Columbia has survived fire, drought, dust storms, blizzards, and even a tornado on the town's 99th birthday. After 125 years of both good times and bad, the people of Columbia have emerged as strong and united as ever.

Truly, it is the people who have enabled Columbia to reach this remarkable milestone. The legacy of those original settlers has been carried proudly to this day, and its reach is not limited to the corner of South Dakota where the town resides. In fact, Ralph Herseth, a graduate of Columbia High School and a former Governor of South Dakota, is the grandfather of our State's newest representative, STEPHANIE HERSETH. I am proud to join Representative HERSETH and Senator JOHNSON in congratulating Columbia on its 125th birthday.

ON THE RETIREMENT OF ROYCE FEOUR

Mr. REID. Mr. President, I rise today to honor Royce Feour who recently retired after reporting on boxing and sports for the Las Vegas Review-Journal for nearly 37 years.

Royce is a legend in Nevada sports reporting. He started his career in journalism half a century ago at age 14 when he covered prep sports for the Review Journal and the High School Sports Association.

He continued writing about sports at the University of Nevada-Reno with the support of two journalism scholarships. He became the editor of the school paper, and a correspondent for the Reno Evening Gazette and the Nevada State Journal.

After he graduated, Royce worked for 5 years at Las Vegas Sun, where he became sports editor. He reported on the first football and baseball games at what was back then the Nevada Southern University—now UNLV. At that first football game, it was so dark by the end of the game that no one in the press box could tell if the winning kick was good.

Royce covered the recruitment of UNLV basketball coach Jerry Tarkanian, who lost his first game and offered to quit that same night. The offer was declined, and Tarkanian went on to win 509 games in 19 seasons, and an NCAA championship in 1990.

Royce was a sportswriter, but he was also a newspaper man. So when an earthquake struck San Francisco and rocked the upper deck of Candlestick Park while he was covering game 3 of

the 1988 World Series, he got on the phone and dictated a story about the quake.

Royce is best known for covering boxing in Las Vegas. He has reported on nearly every major championship fight in the city, going back to the Sonny Liston-Floyd Patterson heavyweight title bout at the Las Vegas Convention Center in 1963. He has chronicled the careers of boxing legends such as Muhammed Ali, Lennox Lewis, Roy Jones, Evander Holyfield, Riddick Bowe, Julio Cesar Chavez, Roberto Duran, Larry Holmes, Mike Tyson, Sugar Ray Leonard, Marvin Hagler, Roy Jones Jr., Thomas Hearns and Oscar de La Hoya.

For his incredible work, Royce has earned several Nevada Press Association awards and was named Writer of the Year by the North American Boxing Federation. He was the Las Vegas Boxing Hall of Fame's Local Media Man of the Year. And in 1996, he was awarded the Nat Fleischer Award for ''Excellence in Boxing Journalism'' by the Boxing Writers Association of America.

That is the highest honor that can be given to a boxing reporter. But I honor Royce for his brand of friendship. Royce, thanks for being my friend.

Royce Feour's exceptional skills and lasting devotion to his trade are remarkable. He is truly one of the heavyweights of the Nevada press. Please join me in honoring his years of extraordinary work, and wishing him well in his retirement.

CONGRATULATIONS TO SPARKS, NEVADA

Mr. REID. Mr. President, I rise to offer my congratulations to the City of Sparks, NV, which was recently selected as a finalist in the 2004 All-America City competition.

Sparks is a city of about 80,000 residents in Washoe County, which is in northern Nevada. Under the leadership of Mayor Tony Armstrong, it is a wonderful place to live, even better than it has been in the past.

The All-America City Award is sponsored by the National Civic League, which was founded 110 years ago by Theodore Roosevelt to promote citizenship and democracy.

Since the award was initiated in 1949, more than 4,000 communities have competed for the coveted designation as an All-America City. This year, hundreds of cities began the process, which requires extensive documentation of how the community is responding to challenges. Sparks was selected as one of the 30 finalists.

Nevada is the fastest growing State in the country. Sparks is doing a great job of absorbing growth, while preserving the hometown family atmosphere that makes it so attractive to longtime residents and newcomers alike.

Sparks has also done a great job of revitalizing its infrastructure, especially in the wake of a massive flood a few years ago. Sparks Marina Park and the Victorian Square redevelopment project are two examples of this renewal.

Sparks has always been a great place to live and raise a family. Now it can boast of being an All-America City finalist. Once again, I congratulate the Mayor, City Council and the citizens of Sparks, NV.

CBO REPORT

Mr. DOMENICI. Mr. President, at the time S. Rep. No. 108–269 was filed, the Congressional Budget Office report was not available. At the following link, ftp://ftp.cho.gov/54xx/doc5479/s1582.pdf, the CBO report for S. 1582 is now available on their Web site, and I ask unanimous consent that the CBO cost estimate be printed in the RECORD for the information of the Senate.

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

S. 1582—Valles Caldera Preservation Act of 2004

Summary: Public Law 106–248 established the Valles Caldera Preserve in New Mexico. That law also established the Valles Caldera Trust, a government-owned corporation, to manage the preserve. S. 1582 would make several changes to Public Law 106–248. One of those changes would authorize the Secretary of Agriculture to acquire, by taking, certain subsurface rights to the Baca Ranch, which lies within the preserve. Under the bill, the owners of those subsurface rights would be entitled to just compensation as determined by a court.

CBO estimates that S. 1582 would increase direct spending by about $3 million in 2007. Enacting the bill would not affect revenues. S. 1582 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of state, local, or tribal governments.

In the event that the Secretary of Agriculture uses a declaration of taking to acquire certain mineral interests of the Baca Ranch, such an acquisition would constitute a private-sector mandate as defined by UMRA. The cost of the mandate would be the fair market value of the mineral interests and expenses incurred by the private-sector owners in transferring those interests to the federal government. Based on information from government sources, CBO estimates that the direct cost of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates ($120 million in 2002, adjusted annually for inflation).

Estimated Cost to the Federal Government: The estimated budgetary impact of S. 1582 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment) and 800 (general government).

	By fiscal year, in millions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
Estimated budget authority	0	0	1	0	0	0	0	0	0	0
Estimated outlays	0	0	3	0	0	0	0	0	0	0

Basis of Estimate: For this estimate, CBO assumes that S. 1582 will be enacted near the start of fiscal year 2005 and that the federal government will assume ownership of the subsurface rights soon thereafter. Based on information from the Department of the Interior about the length of time typically required to resolve similar cases, we assume that a court would award a total of $3 million in compensation to the owners of those subsurface rights during fiscal year 2007.

According to the Forest Service, the appraised value of the subsurface rights to be taken is about $2 million. In addition, based on information about historical differences between federal appraisals and amounts awarded by courts to compensate takings of private property in New Mexico, CBO estimates that an additional $1 million would be awarded to the owners of those subsurface rights. Hence, we estimate that payments to those parties would total about $3 million in 2007.

S. 1582 specifies two sources of funds to make that payment. First, the bill would require the Forest Service to use existing funds to compensate the owners of the subsurface rights for the appraised value of those rights. Second, S. 1582 would provide authority to use the Claims and Judgments Fund to pay additional amounts awarded by the court. For this estimate, CBO assumes that the agency would use $2 million of funds appropriated for land acquisition in fiscal year 2004—funds that CBO estimates are available but not likely to be spent under current law—to pay a portion of the compensation amount. Hence, we estimate that the bill would provide new budget authority of $1 million in 2007.

Estimated Impact on State, Local, and Tribal Governments: S. 1582 contains no intergovernment mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Estimated Impact on the Private Sector: In the event that the Secretary of Agriculture uses a declaration of taking to acquire certain mineral interests of the Baca Ranch, such an acquisition would constitute a private-sector mandate as defined by UMRA. The cost of the mandate would be the fair market value of the mineral interests and expenses incurred by the private-sector owners in transferring those interests to the federal government. Based on

information from government sources, CBO estimates that the direct cost of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates ($120 million in 2002, adjusted annually for inflation).

The bill would direct the Secretary of Agriculture to acquire the mineral interests without the seller's consent should negotiations for a sale fail after 60 days. Should those negotiations fail, the Secretary of Agriculture would be required to file a declaration of taking with the court. The declaration of taking would force the owners of the geothermal and mineral interests to give up ownership in exchange for a sum equal to the fair market value as determined by the court. As noted above, an appraisal done by the Forest Service in 2001 concluded that the privately held mineral and geothermal interests on the Baca Ranch have a fair market value of almost $2 million. In December 2001, the Forest Service's offer for purchase of the interests based on this appraisal was rejected.

Estimate Prepared by: Federal Costs: Megan Carroll. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Selena Caldera.

Estimate Approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

ANNUAL REPORT OF THE U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Mr. BYRD. Mr. President, today the U.S.-China Economic and Security Review Commission issued its second major annual report to the Congress, as mandated by the Congress in its enabling statute, P.L. 106–398, October 30, 2000, as amended by Division P of P.L. 108–7 February 20, 2003. I commend it to my colleagues as a comprehensive, insightful and useful examination of the key trends, policies and realities inherent in the U.S./China relationship, and featuring a number of recommendations for the Congress to consider.

It is noteworthy that the Commission adopted this report by a unanimous, bipartisan vote of 11–0. The commission is composed of an equal number of Democratic and Republican appointees, three each by the four leaders of the Senate and the House of Representatives. It is refreshing, indeed, in an era characterized by far too much partisanship and divisiveness, that in its treatment of the often contentious and important issues regarding this growing bilateral relationship, the Commission could reach a unanimous vote. Debates over foreign policy, it has often been said, to be effective, should end at the water's edge, and we should speak as a Nation with one voice to the world. Mr. President, in this report, bipartisan unanimity has been achieved, and by a very diverse group of thoughtful and independent minded Commissioners. I would also point out that this is a purely congressional body, in that all of the commissioners are appointed by the congressional leadership, and the report which is issued is intended to be exclusively advisory to the Congress.

The mandate of the U.S.-China Commission is to ''monitor, investigate, and report to Congress on the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China.'' The commission, therefore, takes an expansive view of U.S. national security, which is that our economic health and well-being are fundamental national security matters, including the maintenance of a strong manufacturing base, and the ability to maintain U.S. global competitiveness and a healthy employment level and growth rate. These central economic factors are just as essential to the national security and defense of our Nation as are strong and ready standing armies, navies and air forces equipped with the best weaponry, leadership and operational doctrines.

In addition, the commission has treated, very thoroughly, a series of specific topics mandated in amendments to its charter last year, including China's proliferation practices, China's economic reforms and U.S. economic transfers to China, China's energy needs, Chinese firms' access to the U.S. capital markets, U.S. investments into China, China's economic and security impacts in Asia, U.S.-China bilateral programs and agreements, China's record of compliance with its World Trade Organization, WTO, commitments, and the Chinese government's media control efforts.

Mr. President, I will not recite all the many important conclusions and recommendations for action contained in this timely report. But I point out that the United States needs to be much more proactive and clear-thinking in managing our overall relationship with China, and far more focused on what our goals are in the relationship if we are to advance our national economic and security interests.

The report concludes, overall, that the U.S.-China economic relationship lacks active management. U.S. goals for specific elements of the relationship are too vague or even nonexistent. This is particularly highlighted in the enormous goods trade deficit, some $123 billion in 2003, and growing rapidly. The United States has the capability to nudge the Chinese into more positive policies and actions, thereby leveling a playing field which China has tilted in the direction of mercantilist behavior, including, in some arenas, intimidating tactics. Issues which have been festering in the WTO, for instance, such as China's artificial manipulation of the value of her currency, continued tolerance of high levels of Intellectual Property Crimes, massive illegal subsidization of Chinese enterprises, resistance to good faith compliance with important WTO procedures, and with many pledges made for progress in proliferation of WMD, all require heightened levels of attention and management by the United States

The United States certainly has such influence at this period, and for the next few years, because of the enormous dependence of China on our good will, our consumer markets, our manufacturing capability, our technology and our cooperation in many fields. Such dependence will not last forever, however, and it is time that we begin to manage this relationship in ways that will produce more positive and favorable outcomes.

Lastly, Mr. President, this report is studded with recommendations for Congressional action and for joint policy-making efforts between the Congress and the Executive Branch. It recognizes that good policy proceeds from building a strong consensus between our two branches, as well as between our two countries. I encourage my colleagues, many of whom have testified on these matters before the Commission, to examine the recommendations offered for our consideration.

Mr. President, the Commission has today issued this fulsome report, and I ask unanimous consent to have printed in the RECORD the Commission's list of recommendations.

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

RECOMMENDATIONS TO CONGRESS

CHAPTER 1—CHINA'S INDUSTRIAL, INVESTMENT, AND EXCHANGE RATE POLICIES

Recommendations for dealing with China's currency manipulation

The 1988 Omnibus Trade and Competitiveness Act requires the Treasury Department to examine whether countries are manipulating their exchange rates for purposes of gaining international competitive advantage. The Treasury is to arrive at its finding in consultation with the IMF, which defines manipulation as ''protracted large-scale intervention in one direction in the exchange market.'' The Treasury has repeatedly evaded reporting on this test. The Commission recommends that Congress require the Treasury to explicitly address this test in its required report to Congress. Furthermore, a condition for taking action against a country that manipulates its currency is that an offending country be running a material global current account surplus in addition to a bilateral surplus. The Commission recommends that Congress amend this provision so that a material global current account surplus is not a required condition.

The administration should use all appropriate and available tools at its disposal to address and correct the problem of currency manipulation by China and other East Asian countries. With regard to China, this means bringing about a substantial upward revaluation of the yuan against the dollar. Thereafter, the yuan should be pegged to a trade-weighted basket of currencies, and provisions should be established to guide future adjustments if needed. As part of this process, the Treasury Department should engage in meaningful bilateral negotiation with the Chinese government, and it should also engage in meaningful bilateral negotiations with Japan, Taiwan, and South Korea regarding ending their long-standing exchange

rate manipulation. The administration should concurrently encourage our trading partners with similar interests to join in this effort. The Commission recommends that Congress pursue legislative measures that direct the administration to take action—through the WTO or otherwise—to combat China's exchange rate practices in the event that no concrete progress is forthcoming.

Recommendations for addressing China's mercantilist industrial and FDI policies

The Commission recommends that Congress direct the United States Trade Representative (USTR) and the Department of Commerce to undertake immediately a comprehensive investigation of China's system of government subsidies for manufacturing, including tax incentives, preferential access to credit and capital from state-owned financial institutions, subsidized utilities, and investment conditions requiring technology transfers. The investigation should also examine discriminatory consumption credits that shift demand toward Chinese goods, Chinese state-owned banks' practice of noncommercial-based policy lending to state-owned and other enterprises, and China's dual pricing system for coal and other energy sources. USTR and Commerce should provide the results of this investigation in a report to Congress that assesses whether any of these practices may be actionable subsidies under the WTO and lays out specific steps the U.S. government can take to address these practices.

The Commission recommends that Congress direct the administration to undertake a comprehensive review and reformation of the government's trade enforcement infrastructure in light of the limited efforts that have been directed at enforcing our trade laws. Such a review should include consideration of a proposal by Senator Ernest Hollings (D–SC) to establish an assistant attorney general for international trade enforcement in the Department of Justice to enhance our capacity to enforce our trade laws. Moreover, the U.S. government needs to place an emphasis on enforcement of international labor standards and appropriate environmental standards.

The Commission recommends that Congress direct the administration to work with other interested WTO members to convene an emergency session of the WTO governing body to extend the MFA at least through 2008 to provide additional time for impacted industries to adjust to surges in imports from China.

CHAPTER 2—CHINA IN THE WORLD TRADE ORGANIZATION: COMPLIANCE, MONITORING, AND ENFORCEMENT

The Commission recommends that Congress press the administration to make more use of the WTO dispute settlement mechanism and/or U.S. trade laws to redress unfair Chinese trade practices. In particular, the administration should act promptly to address China's exchange rate manipulation, denial of trading and distribution rights, lack of IPR protection, objectionable labor standards, and subsidies to export industries. In pursuing these cases, Congress should encourage USTR to consult with trading partners who have mutual interests at the outset of each new trade dispute with China.

The Commission recommends that Congress press the administration to make better use of the China-specific section 421 and textile safeguards negotiated as part of China's WTO accession agreement to give relief to U.S. industries especially hard hit by surges in imports from China.

Notwithstanding China's commitments at the April 2004 JCCT meeting, the Commission recommends that Congress press the administration to file a WTO dispute on the matter of China's failure to protect intellectual property rights. China's WTO obligation to protect intellectual property rights demands not only that China promulgate appropriate legislation and regulations, including enacting credible criminal penalties, but also that these rules be enforced. China has repeatedly promised, over many years, to take significant action. Follow-through and action have been limited and, therefore, the Commission believes that immediate U.S. action is warranted.

The Commission recommends that Congress urge the Department of Commerce to make countervailing duty laws applicable to nonmarket economies. If Commerce does not do so, Congress should pass legislation to achieve the same effect. U.S. policy currently prevents application of countervailing duty laws to nonmarket economy countries such as China. This limits the ability of the United States to combat China's extensive use of subsidies that give Chinese companies an unfair competitive advantage.

The Commission recommends that Congress encourage the administration to make a priority of obtaining and ensuring China's compliance with its WTO commitments to refrain from forced technology transfers that are used as a condition of doing business. The transfer of technology by U.S. investors in China as a direct or indirect government-imposed condition of doing business with Chinese partners remains an enduring U.S. security concern as well as a violation of China's WTO agreement. A WTO complaint should be filed when instances occur.

The Commission recommends that Congress encourage USTR and other appropriate U.S. government officials to take action to ensure that the WTO's Transitional Review Mechanism process is a meaningful multilateral review that measures China's compliance with its WTO commitments. If China continues to frustrate the TRM process, the U.S. government should initiate a parallel process that includes a specific and comprehensive measurement system. The United States should work with the European Union, Japan, and other major trading partners to produce a separate, unified annual report that measures and reports on China's progress toward compliance and coordinates a plan of action to address shortcomings. This report should be provided to Congress. In addition, independent assessments of China's WTO compliance conducted by the U.S. government, such as USTR's annual report, should be used as inputs in the multilateral forum evaluating China's compliance, whether that forum is a reinvigorated and effective TRM or a new process.

The Commission recommends that Congress consider options to assist small- and medium-sized business in pursuing trade remedies under U.S. law, such as through section 421 cases.

CHAPTER 3—CHINA'S PRESENCE IN THE GLOBAL CAPITAL MARKETS

The Commission recommends that Congress reinstate the reporting provision of the 2003 Intelligence Authorization Act [P.L. 107–306, Sec 827] directing the director of Central Intelligence (DCI) to prepare an annual report identifying Chinese or other foreign companies determined to be engaged or involved in the proliferation of weapons of mass destruction or their delivery systems that have raised, or attempted to raise, funds in the U.S. capital markets. The Commission further recommends that Congress expand this provision to require the DCI to undertake a broader review of the security-related concerns of Chinese firms accessing, or seeking to access, the U.S. capital markets. This should include the establishment of a new interagency process of consultations and coordination among the National Security Council, the Treasury Department, the State Department, the SEC, the Federal Bureau of Investigation (FBI), and the intelligence community regarding Chinese companies listing or seeking to list in the U.S. capital markets. The aim of such an interagency process should be to improve collection management and assign a higher priority to assessing any linkages between proliferation and other security-related concerns and Chinese companies, including their parents and subsidiaries, with a presence in the U.S. capital markets.

The Commission recommends that Congress require mutual funds to more fully disclose the specific risks of investments in China. This should include disclosure to investors of the identities of any local firms subcontracted by funds to perform due diligence on Chinese firms held in their portfolios. Subcontractors' principal researchers, location, experience, and potential conflicts of interest should all be disclosed.

The Commission recommends that Congress direct the Commerce Department and USTR to evaluate whether Chinese state-owned banks' practice of noncommercial-based policy lending to state-owned and other enterprises constitutes an actionable WTO-inconsistent government subsidy and include this evaluation in the report on subsidies recommended in Chapter 1.

In its 2002 Report, the Commission recommended that Congress prohibit debt or equity offerings in U.S. capital markets by any Chinese or foreign entity upon which the State Department has imposed sanctions for engaging in the proliferation of weapons of mass destruction (WMD) or ballistic missile delivery systems. The Commission further believes that Congress should bar U.S. institutional or private investors from making debt or equity investments, directly or indirectly, in firms identified and sanctioned by the U.S. government for weapons proliferation-related activities, whether they are listed and traded in the United States or in the Chinese or other international capital markets. For example, NORINCO, a company sanctioned by the U.S. government, is currently available for purchase on the Chinese A share market. U.S.-based qualified foreign institutional investors that have rights to trade on this exchange should not be permitted to invest in NORINCO or any other firm officially determined to have engaged in the proliferation of WMD or ballistic missiles.

CHAPTER 4—CHINA'S REGIONAL ECONOMIC AND SECURITY IMPACTS AND THE CHALLENGES OF HONG KONG AND TAIWAN

Regional engagement

The Commission recommends that Congress revitalize U.S. engagement with China's Asian neighbors by encouraging U.S. diplomatic efforts to identify and pursue initiatives to demonstrate the United States' firm commitment to facilitating the economic and security needs of the region. These initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives. The United States should consider further avenues of cooperation by associating with regional forums of which it is not a member.

Hong Kong

The Commission recommends that Congress consult with the administration to assess jointly whether the PRC's recent interventions impacting Hong Kong's autonomy constitute grounds for invoking the terms of the U.S.-Hong Kong Policy Act with regard to Hong Kong's separate treatment. This includes U.S. bilateral relations with Hong

Kong in areas such as air services, customs treatment, immigration quotas, visa issuance, and export controls. In this context, Congress should assess the implications of the National People's Congress Standing Committee's intrusive interventions with regard to matters of universal suffrage and direct elections. Congress and the administration should continue to keep Hong Kong issues on the U.S.-PRC bilateral agenda and work closely with the United Kingdom on Hong Kong issues.

Cross-strait issues

The Commission recommends that Congress enhance its oversight role in the implementation of the Taiwan Relations Act. Executive branch officials should be invited to consult on intentions and report on actions taken to implement the TRA through the regular committee hearing process of the Congress, thereby allowing for appropriate public debate on these important matters. This should include, at a minimum, an annual report on Taiwan's request for any military equipment and technology and a review of U.S.-Taiwan policy in light of the growing importance of this issue in U.S.-China relations.

The Commission recommends that the Congress and the administration conduct a fresh assessment of the one China policy, given the changing realities in China and Taiwan. This should include a review of:

The policy's successes, failures, and continued viability;

Whether changes may be needed in the way the U.S. government coordinates its defense assistance to Taiwan, including the need for an enhanced operating relationship between U.S. and Taiwan defense officials and the establishment of a U.S.-Taiwan hotline for dealing with crisis situations;

How U.S. policy can better support Taiwan's breaking out of the international economic isolation that the PRC seeks to impose on it and whether this issue should be higher on the agenda in U.S.-China relations. Economic and trade policy measures that could help ameliorate Taiwan's marginalization in the Asian regional economy should also be reviewed. These should include enhanced U.S.-Taiwan bilateral trade arrangements that would include protections for labor rights, the environment, and other important U.S. interests.

To support this policy review, the Commission recommends that the appropriate committees of Congress request that the executive branch make available to them a comprehensive catalogue and copies of all the principal formal understandings and other communications between the United States and both China and Taiwan as well as other key historical documents clarifying U.S. policy toward Taiwan.

The Commission recommends that Congress consult with the administration on developing appropriate ways for the United States to facilitate actively cross-Strait dialogue that could promote the long-term, peaceful resolution of differences between the two sides and could lead to direct trade and transport links and/or other cross-Strait confidence-building measures. The administration should be directed to report to Congress on the status of cross-Strait dialogue, the current obstacles to such dialogue, and, if appropriate, efforts that the United States could undertake to promote such a dialogue.

CHAPTER 5—CHINA'S PROLIFERATION PRACTICES AND THE CHALLENGE OF NORTH KOREA

Should the current stalemate in the Six Party Talks continue, the Commission recommends that Congress press the administration to work with its regional partners, intensify its diplomacy, and ascertain North Korean and Chinese intentions with a detailed and staged proposal beginning with a freeze of all North Korea's nuclear weapons programs, followed by a verifiable and irreversible dismantlement of those programs. Further work in this respect needs to be done to determine whether a true consensus on goals and process can be achieved with China. If this fails, the United States must confer with its regional partners to develop new options to resolve expeditiously the standoff with North Korea, particularly in light of public assessments that the likely North Korean uranium enrichment program might reach a stage of producing weapons by 2007.

The Commission recommends that Congress press the administration to renew efforts to secure China's agreement to curtail North Korea's commercial export of ballistic missiles and to encourage China to provide alternative economic incentives for the North Koreans to substitute for the foreign exchange that would be forgone as a result of that curtailment.

As recommended in the Commission's 2002 Report, and now similarly proposed by President Bush and the U.N. Secretary General, the Commission reiterates that Congress should support U.S. efforts to work with the U.N. Security Council to create a new U.N. framework for monitoring the proliferation of weapons of mass destruction and their delivery systems in conformance with member nations' obligations under the Nuclear Non-Proliferation Treaty, the Biological Weapons Convention, and the Chemical Weapons Convention. This new monitoring body would be delegated authority to apply sanctions to countries violating these treaties in a timely manner or, alternatively, would be required to report all violations in a timely manner to the Security Council for discussion and sanctions.

As recommended in the Commission's 2002 Report, the Commission reiterates that Congress should act to broaden and harmonize proliferation sanctions by amending all current statutes that pertain to proliferation to include a new section authorizing the president to invoke economic sanctions against foreign nations that proliferate WMD and technologies associated with WMD and their delivery systems. These economic sanctions would include import and export limitations, restrictions on access to U.S. capital markets, restrictions on foreign direct investment into an offending country, restrictions on transfers by the U.S. government of economic resources, and restrictions on science and technology cooperation or transfers. The new authority should require the President to report to Congress the rationale and proposed duration of the sanctions within seventy-two hours of imposing them. Although the president now has the authority to select from the full range of economic and security-related sanctions, these sanctions are case specific and relate to designated activities within a narrow set of options available on a case-by-case basis.

CHAPTER 6—CHINA'S ENERGY NEEDS AND STRATEGIES

The Commission recommends that Congress direct the secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement, whereby China engages in some limited exchanges with the organization, to a more structured arrangement whereby the PRC would be obligated to develop a meaningful strategic reserve, and coordinate release of stocks in supply disruption crises or speculator-driven price spikes.

The Commission recommends that Congress encourage work that increases bilateral cooperation in improving China's energy efficiency and environmental performance, such as further cooperation in Clean Coal Technology and waste-to-liquid-fuels programs, subject to any overriding concerns regarding technology transfers. Further, the commission recommends that Congress direct the State and Energy departments, and the intelligence community, to conduct an annual review of China's international energy relationships and its energy practices during times of global energy crises to determine whether such U.S. assistance continues to be justified.

The Commission recommends that the Commerce Department and USTR investigate whether China's dual pricing system for coal and any other energy sources constitutes a prohibited subsidy under the WTO and include this assessment in the Commerce/USTR report on subsidies recommended in Chapter 1.

CHAPTER 7—CHINA'S HIGH-TECHNOLOGY DEVELOPMENT AND U.S.-CHINA SCIENCE AND TECHNOLOGY COOPERATION

The U.S. government must develop a coordinated, comprehensive national policy and strategy designed to meet China's challenge to the maintenance of our scientific and technological leadership. America's economic competitiveness, standard of living, and national security are dependent on such leadership. The Commission therefore recommends that Congress charge the administration to develop and publish such a strategy in the same way it is presently required to develop and publish a national security strategy that deals with our military and political challenges around the world. In developing this strategy, the administration should utilize data presently compiled by the Department of Commerce to track our nation's technological competitiveness in comparison with other countries.

The Commission recommends that Congress revise the law governing the CFIUS process (Title VII of the Defense Production Act)—which gives the president authority to investigate mergers, acquisitions, or takeovers of U.S. firms by foreign persons if such activities pose a threat to national security—to expand the definition of national security to include the potential impact on national economic security as a criterion to be reviewed. In this regard, the term national economic security should be defined broadly without limitation to particular industries.

The Commission recommends that Congress direct the administration to transfer chairmanship of CFIUS from the Secretary of the Treasury to the Secretary of Commerce.

CHAPTER 8—CHINA'S MILITARY MODERNIZATION AND THE CROSS-STRAIT BALANCE

The annual report to Congress recommended in Chapter 4 on Taiwan's requests for military equipment and technology should include an assessment of the new military systems required by Taiwan to defend against advanced PRC offensive capabilities.

As recommended in Chapter 4, Congress and the administration should review the need for a direct communications hotline between the United States and Taiwan for dealing with crisis situations. This is important in light of the short time frame of potential military scenarios in the Strait, together with Chinese strategic doctrine emphasizing surprise and deception.

The Commission recommends that Congress urge the president and the secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

The Commission recommends that Congress direct the administration to restrict foreign defense contractors who sell sensitive military-use technology or weapons

systems to China from participating in U.S. defense-related cooperative research, development, and production programs. This restriction can be targeted to cover only those technology areas involved in the transfer to China.

The Commission recommends that Congress request the Department of Defense to provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly from Russia and Israel.

CHAPTER 9—MEDIA AND INFORMATION CONTROL IN CHINA

On June 30, 2003, the Commission recommended that Congress direct the Broadcasting Board of Governors to target funds for efforts aimed at circumventing China's Internet firewall through the development of anticensorship technologies and methods. Congress approved such funding as part of the 2004 Omnibus Appropriations Act. The Commission recommends that Congress continue this program with enhanced resources, pending successful results for the current fiscal year.

As recommended in the Commission's 2002 Report, the Commission reiterates that Congress should direct the Department of Commerce and other relevant agencies to conduct a review of export administration regulations to determine whether specific measures should be put in place to restrict the export of U.S. equipment, software, and technologies that permit the Chinese government to surveil its own people or censor free speech.

The Commission recommends that Congress approve legislation to establish an Office of Global Internet Freedom within the executive branch, tasked with implementing a comprehensive global strategy to combat state-sponsored blocking of the Internet and persecution of users. The strategy should include the development of anticensorship technologies.

The Commission recommends that Congress encourage the administration to press China to freely admit U.S. government-sponsored journalists, such as those representing the Voice of America and Radio Free Asia. China frequently denies visas for such journalists, despite the fact that China's state-sponsored journalists are freely admitted in the United States. Options should be considered for linking Chinese cooperation to concrete consequences, including the possible use of U.S. visas for Chinese government journalists as leverage to gain admission of more U.S. government-supported journalists to China.

TRIBUTE TO RONALD AND NANCY REAGAN

Mr. LEAHY. Mr. President, we have come to the close of several days of tribute to our late President, Ronald Reagan. So much has been said about President Reagan's buoyant spirit and about the contributions he made to our Nation, and these tributes have helped millions of Americans with the healing process that comes with the death of so popular and beloved a leader.

Though much has already been said about President Reagan, I do want to pay special tribute today to our former First Lady, Nancy Reagan.

For me—and, I suspect, for millions of other Americans—some of the most stirring images of this memorable week have been of Nancy Reagan and her family. We saw again, and so clearly, her strength, her compassion and her deep love for her husband.

Ever since President Reagan's deeply moving announcement to his fellow citizens and to the world that he was suffering from Alzheimer's disease, I have watched Mrs. Reagan conduct herself with compassion, loyalty, competence and caring that have been an inspiration to the thousands of family members who every day struggle to cope with loved ones suffering from this disease or from any of the long variety of other disorders that can come upon us in our older ages—and sometimes far earlier than that.

The Alzheimer's Association estimates that 4.5 million Americans today suffer from this debilitating disease. Often, family members and especially, spouses—end up as primary caregivers to their partners or other family members. Along with the emotional pain and heartbreak of watching the mind of a loved one slowly fade away, many caregivers are ill-equipped to handle the many facets of the illness that present themselves over the duration of this mental and physical struggle. Their own physical health suffers. Managing a job or any other activity outside the home becomes almost impossible.

I believe Nancy Reagan is an inspiration to so many Americans. The love that she and her husband so clearly showed to each other comforted and sustained their marriage in sickness, as it did in health.

Marcelle and I extend our best wishes to Mrs. Reagan and to the entire Reagan family.

AUSTRALIA FREE TRADE AGREEMENT

Mr. BAUCUS. Mr. President, in the book of Ecclesiastes, the Preacher spoke of how there is ''a time to plan, and a time to uproot.'' The American farmer has known this truth from the first days when Indians first walked to this continent.

Those of us who are privileged to represent rural States know well the times of American farmers and ranchers. No matter what the time, their concerns are never far from our thoughts.

Times have changed for American agriculture, and for American jobs. In 1900, 37 percent of American workers worked in agriculture. Now, only about 2 percent do.

Of course, it doesn't seem like 2 percent to rural States such as Montana, North Dakota, and South Dakota, where agriculture can still account for as much as 50 percent of the economy.

But that is the reality: American farmers are more productive than ever. And because productive American agriculture produces more than American households consume, exports are as important as ever. That is why American farmers have been among the strongest supporters of international trade.

And it is about that intersection between American agriculture and international trade that I rise to speak today.

Last month, the United States and Australia signed a free trade agreement, taking an important step to connect two of the world's most vibrant economies. This agreement creates opportunities for both countries. For Australia, it offers integration with the world's largest economic power. For the United States, it offers a link to an Australian market that has one of the highest standards of living in the world—and is a key platform to markets in Asia.

In the coming weeks, we will hear about the significant economic benefits of this agreement. But I think we should also look at this agreement in a broader context. First, we need to take a balanced look at the agreement and assess its costs and benefits. Second, we need to view the Australia agreement in the context of our larger trade agenda.

The benefits of the Australia agreement are compelling—particularly in the context of the current debate over jobs moving overseas.

When compared to some of the other agreements that the administration is negotiating, Australia offers real benefits. And it is not subject to some of the traditional criticisms.

Compare the debate over the Australia agreement to the debate over the Central America agreement. Critics of CAFTA contend that Central America's lower labor and environmental standards will undercut jobs here at home. I share some of these concerns and continue to work hard on strengthening these standards.

Yet, with the Australia agreement, this tension disappears. Australian workers enjoy high labor standards. Australia protects its environment.

More importantly, Australian consumers want U.S. manufactured goods. Australia is one of the few countries where the U.S. enjoys a trade surplus. This fact helps explain the strong support of U.S. manufacturers for this agreement—which they estimate will result in $2 billion more in exports every year.

This free trade agreement offers clear benefits to the U.S. economy and to U.S. workers.

Thus the Australia agreement does not raises the usual concerns over labor and the environment. But it does raise concerns over agriculture. And farmers are usually stalwart supporters of free trade.

Their anxieties are understandable. Australia is a major exporter of many of the same commodities that Americans produce—particularly beef, dairy, and sugar. Yet, Australia offers a relatively small consumer market in exchange. So, while Australian farmers would get increased access to our consumer market of around 250 million people, our farmers would get increased access to an Australian consumer market that is much smaller.

So when the administration announced late in 2002 that it intended to enter into negotiations with Australia, agriculture groups immediately voiced concern.

As I looked at the negotiations, I saw two options. I could sit back, say nothing, and hope for the best. This might have been politically expedient, given the anxieties within the agriculture community, but it would have risked getting a worse product, as a result.

Instead, I decided to engage the process, using my position as the ranking Democrat on the Finance Committee to help shape the best possible agreement for our country and our farmers. After consulting with the agriculture community in Montana, I decided that to do otherwise would be a disservice to the many farmers and ranchers back home who look to me to fight for them.

As I looked at this agreement, the potential concerns for beef, dairy, and sugar producers were clear. But I also saw potential gains for Montana—including wheat farmers and pork producers, as well as Montana's growing technology manufacturing industries. With this in mind, I set out to help Ambassador Zoellick find ways to mitigate the dangers and maximize the gains.

My staff and I worked closely with the U.S. Trade Representative throughout this process. And I met personally with the Australian Prime Minister and other officials. As negotiations entered a critical phase last December, I spelled out to Ambassador Zoellick the sensitive areas for Montana agriculture that needed his greatest attention. I also offered some ideas for how to manage them.

My staff and I worked tirelessly to ensure that negotiators—from both countries—understood and accommodated the needs of Montanans. In early February, the negotiators concluded an agreement that addressed sensitive Montana products with great care. The U.S. Trade Representative addressed my concerns on virtually every commodity.

While Australia agreed to the immediate elimination of all tariffs on many U.S. agricultural products, the U.S. received important protections.

Beef. On beef, my first concern was ensuring that the U.S. gets what is called ''access for access.'' In other words, the U.S. Trade Representative should undertake new agreements and find new export markets to offset potential increased imports from Australia. The proposed U.S.-Thailand agreement, for example, will help us reach that goal. Thailand's population is three times larger than Australia's, with a consumer market that is growing quickly. We need to build on the Thailand agreement by opening other significant markets—particularly in Asia.

But we are several years from finishing the Thailand agreement. And we are likely several years from completing the current round of negotiations in the WTO. So we need to make sure that increased access to our market is far enough down the road that it will be offset by other agreements. To address this, I worked with USTR to ensure a significant transition period. As a result, access for Australian beef will increase very slowly, with duties in place for 18 years. Importantly, the agreement only provides increased access for manufactured beef—other beef products will continue to face the same duties they face today.

I also worked to ensure the agreement contained special safeguards—so that there is not a surge of Australian imports into the U.S. market. As a result, the agreement contains two safeguards—one in effect during the 18-year transition, and another taking effect in year 19 to remain in place indefinitely.

Dairy. For dairy, this agreement recognizes the sensitivity of this industry by retaining existing tariffs indefinitely. Most importantly for Montana, tariffs for milk protein concentrates are unaffected by the agreement.

Sugar. Perhaps the most difficult issue in the agreement was how to address the concerns of the U.S. sugar industry. This industry faces extreme distortions on the global market, for example, high export subsidies in Europe. These distortions chronically depress the world price far below the world's average cost of production. For these reasons, sugar policy must be addressed multilaterally in the WTO negotiations.

In this agreement, Ambassador Zoellick took a difficult and controversial step in excluding sugar entirely from the agreement. Some have criticized him for this. But not this Senator and those I represent.

Sheep. Even for Montana sheep ranchers, who already face free trade in lamb, the agreement delays the elimination of the few remaining wool tariffs, rather than providing for their immediate elimination. This comes on the heels of initial efforts by the U.S. and Australian industries to establish a joint marketing effort aimed at increasing consumption of lamb.

Wheat. On wheat, which is a major Montana export, the agreement makes some progress toward our ultimate goal of reforming global markets. The U.S. industry and I had both hoped to secure an Australian commitment to restructure the Australian Wheat Board, a state trading enterprise, or STE, that acts as a monopoly trader controlling the Australian market. Because Australia is a significant exporter of wheat, their artificially low prices distort the world market and make it harder for U.S. wheat growers to compete.

While Australia did not agree to immediate changes to its Wheat Board, it did agree to reverse its position in the Doha Round negotiations and work with the U.S. to mandate global reform of STEs. This is an important step. It further isolates and undermines the Doha negotiating leverage of other countries that use STEs to distort agriculture markets.

This will particularly help us in our efforts to force reform in Canada. Montana wheat producers are affected daily by the distortions introduced into the U.S. market by the Canadian Wheat Board. This part of the Australia agreement is thus a very positive development, and a clear improvement compared to the status quo.

SPS Issues. Finally, I reminded Ambassador Zoellick of the crucial need for Australia to resolve its sanitary and phytosanitary, or SPS, barriers to U.S. products. In response to U.S. concerns, the Australians agreed to resolve SPS disputes as soon as possible. I am pleased to note that the Australians have made good on this promise in the high-profile dispute over pork. Last month, Australia lifted regulatory barriers to U.S. pork. That one action could mean an additional $50 million in U.S. pork exports.

U.S. negotiators understood my concerns in this agreement. I thank Ambassador Zoellick and his staff—particularly Al Johnson—for addressing them.

Of course, it would be a mistake to think that free trade agreements affect only farmers. For the great swath of American and Montana manufacturing workers hit hard by the more than 3 million jobs lost over the past 3 years, this agreement couldn't come at a better time.

Australia is one of the few large economies with whom the U.S. enjoys a trade surplus. With a standard of living higher than Germany, France, and even Japan, Australia has one of the most robust and fundamentally sound economies in the world. Guaranteed access to a market like this is crucial if we are serious about rebuilding the U.S. economy.

Industrial trade with Australia is already strong, but with this agreement, it will get even stronger. This agreement will eliminate tariffs on more than 99 percent of U.S. goods immediately. Mr. President, 93 percent of current U.S. exports to Australia are manufactured goods, so further economic integration is bound to help U.S. manufacturers and U.S. workers.

These benefits will extend to all parts of the country. Montana industries already export $3.4 million worth of industrial goods to Australia. This number will only grow higher, as a result of this agreement. Montana will benefit not only from increases in direct exports, but from increased demand for other goods that require Montana inputs.

Further benefits would accrue to U.S. exporters from using Australia as a platform for more efficient access to Asian markets. This agreement will thus provide net benefits across a vast spectrum of the U.S. economy—manufacturing, services, investments, and workers.

But let me return to how international trade will help U.S. farmers.

This is always a fundamental question, particularly for those of us who represent rural states.

As a Montanan, it is hard to talk about international trade without thinking about agriculture. Over the years, U.S. agriculture has undergone enormous changes, for reasons that are much broader than globalization. The U.S., as a whole, has changed dramatically. Where we live, where we work, the things we make, the technology we use to make things—all of these have changed since our parents' time.

We need a rural America that is not only stable and prosperous; we need a rural America that is compatible in the long-term with a 21st century characterized by mobility and rapid technological advancement. We need a farm economy that is highly adaptive and aggressively focused on competitiveness.

To accomplish this, we need sweeping changes in several areas. We will need more agricultural research—an area suffering from an appalling decline in federal support. We will need a farm policy that facilitates, rather than simply underwrites, the farm economy.

And we will need a vigilant search for new and growing markets.

Of course, many of these needs are beyond the ken of trade policy, but the search for new markets is not. That is why fundamentally we need a strategy that embraces the global trading system.

For the U.S. to remain a superpower in agriculture, we must see the world as it is, not as it used to be. That means we need to focus our attention on global negotiations that will create real fairness in agriculture trade. I share the concern of many about a trade policy agenda that focuses too much attention on bilateral agreements, at the expense of our broader efforts in the World Trade Organization.

Yet, in the trend toward globalization, the industrial world is moving ahead. We should not allow agriculture to be left behind. Leaving agriculture behind in the 20th century trading regime would be disastrous for U.S. farmers, if for no other reason than they are, on the whole, the most productive and technologically advanced in the world. A globalized economy and its institutions are the only forum in which American farmers' technological advantage is most powerful. American agriculture must move ahead to prosper.

We cannot shut agriculture out of the globalizing process. We cannot settle for the status quo, hoping that it will sustain us indefinitely. As the rest of the world's agricultural producers rapidly develop, we cannot hide behind high tariffs and high subsidies.

The U.S. represents only 5 percent of the world's consumers. Yet, in commodity after commodity, we produce far more than Americans can consume. That is true of beef and wheat, for example. And demand from our own 5 percent will likely grow much more slowly than demand from the other 95 percent. There are only so many steaks any one well-fed American can eat. But in the developing world, demand for food still has much room to grow. The more their wealth grows, the more that consumption patterns will shift from low-cost, starchy foods to high-value sources of protein such as beef and wheat.

We are faced, then, with a simple choice: Either we try to turn back the clock to a time of inferior technology and a more insular world or we seek greater access to the markets of the other 95 percent of the world. The choice is clear.

As a nation, we have embarked on a policy of opening markets. This is a wise policy and a sound one. The fruit of this effort should be more and higher-paying jobs for U.S. workers, more abundant choices for our consumers, and greater markets for our farmers and ranchers.

Yet, if we are going to sell our products overseas, then we have to engage global markets. And we can't do that in a vacuum. This means negotiating trade agreements and fighting the distortions—such as high tariffs and high subsidies—that other countries use to undermine our competitiveness. In that fight, we have no better ally than Australia.

At the heart of the matter, engaging global markets means opening doors. And we won't succeed in opening doors to other markets if we won't open our own. We can't insist that China, Thailand, Taiwan, and Japan open their markets to our products, if we aren't also willing to open our markets to theirs. And I can't insist that Ambassador Zoellick accommodate my concerns in a free trade agreement, if I am not willing to offer my support in return.

When Ambassador Zoellick announced the administration's intention to negotiate a free trade agreement, many of us harbored concerns that he would negotiate a far different agreement than the one we have before us today. But the protections that American negotiators built into this agreement are strong. And I congratulate the Trade Representative's office for its skill in negotiating such a tough agreement.

Mr. President, I will support the U.S.-Australia free trade agreement. I look forward to working with my colleagues to make sure that this agreement is implemented fairly. And I look forward to working with the U.S. Trade Representative to make sure that all trade agreements are the best possible deal for Montana.

This is the time for engaging our allies and for opening the door to new markets. This is the time for planting the seeds of a greater world trade system. As the American farmer has done down through the centuries, we should labor today for a future of growth.

RECOGNIZING THE PROFESSIONALISM OF MS. CAROL MADONNA

Mr. AKAKA. Mr. President, I recognize the efforts of Ms. Carol Madonna, a Brookings Institution LEGIS fellow, who has been a tremendous asset to me and my office during the past 18 months. Over the past year and a half, Carol has assisted me with fulfilling my responsibilities as a member of the Senate Committees on Armed Services and Veterans' Affairs. She has worked many long hours to address issues of concern to our men and women in the military, veterans, and Federal employees.

Mr. President, Carol Madonna is an excellent example of a dedicated Federal employee. She is always willing to pitch in and provide assistance. She is a very quick learner and an extremely hard worker. She adapts quickly to changing circumstances and is always responsive to situations. From early bird breakfasts with Pentagon officials to late vote evenings in the Senate, Carol was an invaluable member of my legislative staff and a quick study on the diverse and competing priorities that arise in the Senate on a regular basis. Her professionalism and dedication to getting the job done reflects well on the Defense Supply Center-Philadelphia, an agency within the Defense Logistics Agency, where Carol has been employed for the past 22 years.

Mr. President, Carol Madonna has many accomplishments that are worthy of mention. She is most proud, however, of her two sons, Dan Madonna, a teacher in Philadelphia, and Lee Madonna, who is about to receive his Associate's Degree from Delaware County Community College. As much as my staff and I will miss Carol, we wish her well as she joins her family in Philadelphia, and thank her for her wonderful service to the people of Hawaii and this great Nation.

EMPTY WORDS

Mr. KYL. Mr. President, I ask unanimous consent that the column ''Empty Words'' by Frank Gaffney, which appears in today's Washington Times, be printed in the RECORD. I believe that this piece appropriately emphasizes the crucial role continued research plays in maintaining the credible nuclear deterrrent of the United States. As more information becomes available regarding covert nuclear programs in North Korea and Iran, the sustainability and credibility of America's nuclear arsenal is of paramount concern.

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

[From the Washington Times, June 15, 2004]

EMPTY WORDS

(By Frank J. Gaffney Jr.)

The U.S. Senate gets back to work today after a week of bipartisan mourning of Ronald Reagan and tributes to his security policy legacy. It is fitting that the first orders

of business will be votes on amendments to repudiate two of the initiatives most central to the Gipper's foreign and defense policy success: the maintenance of a credible and safe nuclear deterrent, and protection of Americans against missile attack.

The first effort to reduce last week's Reagan endorsements to empty words will be led by some of the Senate's most liberal Democrats, notably Sens. Edward Kennedy of Massachusetts and Dianne Feinstein of California. They seek to preclude the United States from even researching new nuclear weapons, let alone testing or deploying them.

Ronald Reagan hated nuclear weapons as much as anybody. What is more, he seriously worked to rid the world of them. Yet, unlike these legislators, President Reagan understood—until that day—this country must have effective nuclear forces. He was convinced there was no better way to discourage the hostile use of nuclear weapons against us than by ensuring a ready and credible deterrent.

Toward that end, Mr. Reagan comprehensively modernized America's strategic forces, involving both new weapons and an array of delivery systems He built two types of intermediate-range nuclear missiles and deployed them to five Western European countries. And, not least, he recognized our deterrent posture depended critically upon a human and physical infrastructure that could design, test, build and maintain the nation's nuclear arsenal. Without such support, America would inexorably be disarmed.

In fact, it is no exaggeration to say that, but for Mr. Reagan's nuclear modernization efforts—most of them over the strenuous objections of senators like Mr. Kennedy and John Kerry—we may well not have a viable nuclear deterrent today. Even with his legacy, 15 years of policies more in keeping with the anti-nuclear ''freeze'' movement's nostrums than Mr. Reagan's philosophy of ''peace through strength'' have undermined the deterrent by creeping obsolescence, growing uncertainty about its reliability and safety and loss of infrastructure to ensure its future effectiveness.

This is especially worrisome since some of the research in question would explore whether a Robust Nuclear Earth Penetrator (RNEP) could be developed to penetrate deep underground before detonating. Such a capability would allow us to hold at risk some of the 10,000 concealed and hardened command-and-control bunkers, weapons of mass destruction (WMD) production and storage facilities and other buried high-value targets built by potential adversaries.

If anything, the absence of a credible American capability to attack such targets may have contributed to rogue states' massive investment in these facilities over the past 15 years. One thing is clear: Our restraint in taking even modest steps to modernize our nuclear deterrent—for example, by designing an RNEP or new, low-yield weapons—has certainly not prevented others from trying to ''get the Bomb.''

There is no more reason—Sens. Kennedy, Kerry and Feinstein's arguments to the contrary notwithstanding—to believe continuing our unilateral restraint will discourage our prospective enemies' proliferation in the future.

Last September, the Senate recognized this reality, rejecting an earlier Feinstein-Kennedy amendment by a vote of 53–41. Five Democrats—Sens. Evan Bayh of Indiana, Fritz Hollings of South Carolina, Zell Miller of Georgia, Ben Nelson of Nebraska and Bill Nelson of Florida—joined virtually every Republican in permitting nuclear weapons research, with the proviso further congressional approval would be required prior to development and production. The prudence of this is even more evident today in light of revelations of covert Iranian and North Korean nuclear activity since last fall.

The other assault on the Reagan legacy will be led by Democratic Sens. Carl Levin of Michigan and Jack Reed of Rhode Island. They hope to strip more than $500 million from defense authorization legislation that would buy anti-missile interceptors, the direct descendant of Ronald Reagan's Strategic Defense Initiative (SDI).

Just last week, former Gorbachev spokesman Gennadi Gerasimov, reminded the world how mistaken those like Sen. Carl Levin, Michigan Democrat, were when they ridiculed and tried to undermine the Reagan missile defense program: ''I see President Reagan as a gravedigger of the Soviet Union and the spade that he used to prepare this grave was SDI.''

Today, there are published reports the U.N. Security Council has been briefed by its inspectors that ballistic missiles and WMD components were slipped out of Iraq before Saddam Hussein was toppled. Such weapons, like some of the thousands of other short-range missiles in arsenals around the world, could find their way into terrorists hands and be launched at this country from ships off our shores.

Can there be any doubt but that Ronald Reagan—faced with today's threat of missile attack and the proliferation of nuclear and other weapons of mass destruction—would have been any less resolute in building missile defenses and maintaining our nuclear deterrent than he was in the 1980s? If last week's praise for his visionary leadership two decades ago was not dishonest rhetoric, it should inspire, and guide us all now.

BIPARTISAN CAMPAIGN REFORM ACT OF 2002

Mr. McCAIN. Mr. President, since the Bipartisan Campaign Reform Act of 2002, BCRA, became law, many of its detractors have mistakenly argued that it is ineffective and unworkable. Mr. President, I ask unanimous consent that two articles from the Washington Post, an article from the Wall Street Journal, and an article by Anthony Corrado, a visiting Fellow at The Brookings Institution, be printed in the RECORD immediately following my remarks. As these articles describe, BCRA is having exactly the effect intended. Furthermore, as Mr. Corrado points out, BCRA did not serve as the death knell for America's political parties; their fundraising remains strong.

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

[From the Washington Post, June 8, 2004]

REPUBLICAN 'SOFT MONEY' GROUPS FIND BUSINESS RELUCTANT TO GIVE

(By Thomas B. Edsall)

Republican operatives attempting to compete with Democratic groups for large sums of unregulated presidential campaign funds have run into a number of roadblocks, including reluctance on the part of many corporations to contribute to new independent groups.

The Federal Election Commission last month cleared the way for liberal groups to continue raising millions of dollars of unrestricted contributions, and now GOP groups that have held back are joining in. But in a sign of the problems GOP leaders are encountering, one of the key Republican groups, Progress for America, failed in its bid to recruit James Francis Jr. to become chairman.

Francis ran the Bush 2000 campaign's ''Pioneer'' program, which produced 246 men and women who each raised at least $100,000. PFA organizers sought out Francis because his close ties to the administration would have lent enormous clout and prestige.

''It gets down to, 'What does it look like?' And it might not look like I was independent,'' Francis said, adding that he could have complied with laws requiring total separation from the Bush campaign, but critics would still have raised questions.

Meanwhile, election law lawyers said corporations are showing significant reluctance to get back into making ''soft money'' donations after passage of the McCain-Feingold law that went into effect on Nov. 6, 2002.

Unlike political committees regulated by the FEC, ''527s''—named for the section of the tax code that governs their activities—have no restrictions on the sources or amount of contributions, and some have received gifts of $5 million or more. Republicans, encountering corporate unwillingness to give to GOP 527s and seeking to capitalize on the Bush campaign's unprecedented fundraising success, urged the FEC to clamp down on the these groups' activities.

''I would say that on the whole the corporate business community has been very reluctant to support 527s,'' said GOP lawyer Jan W. Baran.

Kenneth A. Gross, an election lawyer, said he has told his corporate clients ''to proceed with caution.'' Prospective donors of soft money should be sure to get affirmative statements that the organization asking for money will not coordinate activities with federal candidates in violation of the law, and that the organization will abide by the rules governing political communications, he said.

Overall, pro-Democratic 527 organizations have raised at least $106.6 million, according to PoliticalMoneyLine, three times the $33.6 million raised by pro-Republican groups in this election cycle.

The Democratic advantage disappears, however, when these figures are added to the amounts raised by the national party committees and the presidential campaigns. Then the GOP pulls far ahead, $557.6 million to $393.6 million.

Lobbyist and former House member Bill Paxon, who is vice president of the Leadership Forum, a Republican 527, acknowledged that the GOP 527 effort will not be able to match the Democrats'.

Paxon said donations in the $25,000 to $50,000 range have started to come in from at least a dozen corporations, including Pfizer Inc., Union Pacific Corp., Bell South Corp. and International Paper Inc. In 2002, those four companies gave far more to Republican Party committees, more than $2.6 million.

''We don't expect to be posting huge numbers at the end of this filing,'' covering the period through the end of June, Paxon said, ''but we have laid the groundwork.''

Democrats have set up at least seven new 527 organizations. These groups are on track to raise $175 million to $300 million for ''independent'' issue ads and get-out-the-vote activities.

Financier George Soros, Progressive Corp. Chairman Peter B. Lewis and Hollywood writer-producer Stephen L. Bing have each given more than $7 million to such groups as the Media Fund, America Coming Together and MoveOn.org, which are working to defeat President Bush.

Privately, organizers of the Republican 527s said they have been banking on an outpouring of corporate support to defray start-up costs and to get their programs up and

running. Corporate and union money cannot be spent on television ads mentioning federal candidates for 60 days before the general election, although it can be used for voter mobilization.

Signs of corporate wariness toward making soft money contributions could be found in a number of places.

After Francis rejected the chairmanship of PFA, a key leadership role has fallen to co-chairman James W. Cicconi, general counsel and executive vice president at AT&T, but the company has declined to say whether it will give any money to the 527s. ''We have not made a comment about that at all,'' said Claudia B. Jones, director of media relations for AT&T.

A Wall Street Journal survey of the 20 top businesses giving soft money before the new law went into effect showed that more than half of the 20 companies are resisting pressure to give, and only one, Bell South, would say affirmatively that it plans to make corporate contributions.

Baran said that in addition to corporate wariness toward making soft money contributions, the success of the Bush campaign and the Republican National Committee has worked as a disincentive to giving to the 527s:

''A lot of folks on the business side are looking at the $200 million the Bush campaign has raised, and the millions the RNC has raised, and they aren't sure the funding [of the 527s] is all that necessary.''

[From the Wall Street Journal, June 7, 2004]

COMPANIES PARE POLITICAL DONATIONS

REPUBLICANS FEEL THE BRUNT AS NEW 'SOFT MONEY' RULES UPEND TRADITIONAL GIVING

(By Jeanne Cummings)

WASHINGTON.—Republicans are getting a cold shoulder from some of their traditional corporate benefactors, putting them at a fund-raising disadvantage against new, well-financed political organizations touting the Democratic message.

A Wall Street Journal survey of the top 20 corporate donors to national political party committees during the 2002 election cycle found that more than half—including the likes of Citigroup Inc., Pfizer Inc. and Microsoft Corp.—are resisting giving big-dollar donations to the new, independent organizations that were created after a 2002 campaign-finance reform law restricted such contributions to the political parties.

The reticence illustrates an uneasiness on the part of some of the corporations to get sucked back into the world of unlimited political contributions that they thought campaign reform had left behind. They also seem reluctant to give to untested organizations that are dedicated to partisan political activity, rather than to policy or legislative issues.

Their attitude sends a signal that a major source of the ''soft money''—the large and unlimited donations to the national parties that long fed the political system—may have dried up, at least in the short term.

''It reflects what many advocates of reform said: that much of this money was not natural to the political process,'' said Anthony Corrado, a campaign-finance expert at the Brookings Institution.

The corporate coyness could be an unexpected fund-raising boon to Democratic presumptive nominee John Kerry, who is enjoying an extraordinary year of fund raising.

The big-dollar soft-money contributions were the financial hallmark of past elections, and the flood of such contributions included unregulated and unlimited checks from corporations, labor unions and wealthy individuals. Political parties are barred from accepting soft money under the 2002 law.

However, several new political groups, formed outside the parties in the wake of the law, now are seeking those same checks to conduct political projects, such as voter-mobilization efforts and advertising campaigns.

The Democrats' soft-money base, largely comprising labor unions and wealthy liberals, has responded readily, depositing $40.5 million in new organizations, which are playing a significant role in the presidential campaign.

For instance, the Media Fund, an advertising organization founded by former Clinton aide Harold Ickes, has spent $15 million attacking President Bush or defending Mr. Kerry. America Coming Together, a voter-mobilization group headed by labor turnout guru Steve Rosenthal, has spent nearly $20 million enrolling new voters that could neutralize or best the grass-roots work of the Bush-Cheney operation in swing states.

Republicans had hoped the Federal Election Commission would shut down these groups. But the commissioners didn't, and that has Republicans playing catch-up on tough terrain.

The corporations contacted by The Wall Street Journal that aren't giving in this cycle made about $21.2 million in contributions to the national parties during the 2002 cycle. More than half of that money went to Republican committees—a sum that would have given the new Republican groups a boost in catching the Democrats.

The reluctance of some big companies to give could give cover to other corporations, which collectively contributed $267 million to both parties in the last election cycle—or more than half the $496 million of soft money raised in 2002, according to the Center for Responsive Politics.

''To the extent the big companies use their muscle to reject entreaties by political organization to give money, the medium-size firms will feel that they have a more credible position when they reject them,'' says Nathaniel Persily, a campaign-finance expert at the University of Pennsylvania Law School.

OLD RELIABLES

Among the companies not giving to these new organizations, whether they have Democrat or Republican ties, are some of the biggest and most reliable corporate donors to the parties, including Fannie Mae, Verizon Communications Inc. and FedEx Corp. Pfizer's decision to bow out of the process means that another 2002 big giver, Pharmacia Co., is also out of the game, since it has since been sold to Pfizer.

Other companies, such as Altria Group Inc. and Freddie Mac, have refused solicitation so far this cycle, but haven't adopted a blanket no-giving policy.

Only BellSouth Corp. said it has decided to donate to the groups. AT&T Corp. and American International Group Inc. refused to say what they plan to do.

This corporate attitude doesn't mean Republican groups won't generate substantial sums to finance independent operations; the party has a healthy roster of deep-pocketed individual donors.

But executives say it's difficult to justify donations to shareholders because the core missions of these new political groups, at best, are only tangentially connected to the company's legislative and regulatory priorities.

TRACK RECORDS

In contrast, the Republican National Committee and Democratic National Committee had platform policy statements on labor, telecommunications, and tax policy.

''In the past we have given to pre-existing organizations that we could look at their track records'' and how their work advanced the company's priorities, said Misty Skipper, a spokeswoman for CSX Corp. The company's former chairman, John Snow, is President Bush's secretary of the Treasury but so far it has refused solicitations for this election cycle.

''The new organizations are still evolving and that makes it harder to make a detailed analysis, so we will take them on a case-by-case basis,'' said Ms. Skipper.

Since the law governing these groups is unsettled, executives say it also raises the risk a corporate donor could get dragged into a political scandal. ''Any time there is a new system put in place there is a lot of uncertainty, and nobody in corporate America likes uncertainty,'' said John Scruggs, vice president for government affairs for Altria, another company that is holding back for now. ''I think everybody would just like to see how all this will work before they make any firm decisions.''

Perhaps the biggest reason for the reluctance is many executives felt the soft-money system amounted to extortion of private businesses. ''It was bad for the country and bad for the political system. And what's bad for the political system is only bad for business,'' said Edward A. Kangas, retired chairman of Deloitte Touche Tohmatsu who led the corporate fight for passage of the 2002 reform law.

Businesses may open their wallets in future campaign cycles, and they are still contributing to party conventions and a few party entities exempt from the ban, including the Democratic and Republican governors associations.

The chilly reception the new outside organizations are receiving from corporate donors is prompting one of the leading Republican groups, Progress for America, to concentrate its efforts on soliciting wealthy individuals, says President Brian McCabe.

Former Congressman Bill Paxon, who leads the Leadership Forum, an organization associated with the Republican House caucus, said flatly: ''We will not have the total number of resources the Democrats have.''

Still, the Leadership Forum has assembled lobbyists and influential Republicans committed to raising $25,000 apiece. Next month, it will hold a fund-raising event featuring House Speaker Dennis Hastert.

But the House leadership's embrace of the forum caught the eye of watchdog organizations monitoring possible violations of the law's ban on coordination with elected officials. ''We will be filing new complaints,'' said Fred Wertheimer, a leading reformer.

CORPORATE RELUCTANCE

Former corporate soft-money donors are declining to give to new independent political groups seeking the big checks that parties cannot accept anymore.

Who's Giving: BellSouth.

Who's not giving: AFLAC; Altria Group; BlueCross and BlueShield; Citigroup; CSX; Eli Lilly; Fannie Mae; Freddie Mac; Lockheed Martin; Microsoft; Pfizer; and Verizon. Source: WSJ research.

[From the Washington Post, June 4, 2004]

A BETTER CAMPAIGN FINANCE SYSTEM

(By E.J. Dionne Jr.)

Pity the poor campaign finance reformers. All their dreams are supposedly going up in smoke.

After all, both President Bush and Sen. John Kerry passed up federal matching funds in the primaries so they could raise record sums of private money. Groups theoretically independent of the parties have run millions of dollars worth of ads, often using huge donations from the very rich. Kerry considered declining to accept the Democratic nomination at his party's convention in July so he

could have an extra month to raise and spend private money.

Critics of reform see these developments as signs of a loopy system. In fact, the 2004 campaign will be remembered as one in which the political money system became more democratic and more open. Small contributors have more influence this year. Big contributors have less. Those new big-money political committees are getting a lot of attention because they are now the exception rather than the rule.

Does this mean that the new system pushed through by John McCain and Russ Feingold in the Senate and Chris Shays and Marty Meehan in the House has brought forth perfection? Of course not. Their law was simply a first but important step.

Thanks to the new law, candidates for the presidency, the House and the Senate are not themselves out soliciting unlimited contributions from rich and well-connected people or from big corporations. A lot of business guys are relieved that politicians considering bills that affect their companies aren't on the phone suggesting that it would be awfully nice to see them and their corporate checkbooks at the next ''soft money'' fundraiser.

The hope of McCain-Feingold was to create a more broadly based political money system—more people contributing in smaller amounts. Partly because of the law and partly because of the inventiveness of political entrepreneurs such as Zephyr Teachout, Howard Dean's director of online organizing, that is what is happening.

Dean began the democratizing process during the primary campaign by creating a base of tens of thousands of small donors. Kerry got the Dean message. He started peppering his speeches with references to ''JohnKerry.com'' and asking for donations. (Bush, in fairness, can be reached at GeorgeWBush.com.)

Kerry then proceeded to break all Democratic Party records, raising more than $117 million at last count.

The Kerry Web site recently featured Cathy Weigel of North Kansas City, Mo., as its 1 millionth online contributor. For a mere $50 contribution, Weigel got a call from Kerry and a promise of ''a great seat at the Inauguration and a prime visit to the White House.'' Such calls and promises used to go to big soft-money fundraisers who bagged a million or so in contributions.

Yes, problems persist. They always will in this imperfect world. By failing to regulate the ''527'' political committees (named after the section of the tax code they are organized under), the Federal Election Commission needlessly opened a loophole that could push the system back toward big money. This loophole won't destroy the entire law. Under McCain-Feingold, outside groups will have to operate on smaller contributions starting two months before the election. But the loophole should still be closed.

The system regulating presidential primaries is entirely antiquated, one reason Bush and Kerry both dropped out of it. It worked well for a long time, but now it needs fixing.

It's absurd that simply by delaying his party's convention into September, Bush gave himself not only an extra month more than Kerry to raise private money but also a leg up afterward. In the general election campaign, Kerry will have to stretch the $75 million he gets in public money over three months; Bush will have the same amount to spend in just two months.

The system needs stronger incentives to encourage candidates to base their campaigns on small contributions. Tax credits could cover the cost of providing candidates free airtime. And federal candidates should get the ''clean money'' option that allows politicians in Arizona and Maine to virtually eschew private fundraising. Those clean-money plans have given new people a chance to enter politics without mortgaging their houses or their souls.

Those who would abandon all efforts to limit money's influence on politics are urging that we live with plutocracy. By indiscriminately pronouncing even successful reform efforts as failures, reform's foes are trying to undermine any attempt to make politics a little more honest, a little less subject to the whims of the wealthy, a little more democratic. The nation's campaign money system is still flawed. But it's better than it used to be.

[May 2004]

NATIONAL PARTY FUNDRAISING REMAINS STRONG, DESPITE BAN ON SOFT MONEY

(By Anthony Corrado)

The national party committees continue to outpace the fundraising totals set in the 2000 election cycle, despite the ban on soft money. The latest totals suggest that the national committees are adapting successfully to the new fundraising restrictions imposed by the Bipartisan Campaign Reform Act (BCRA), more commonly known as McCain-Feingold, and that they will have the resources needed to mount meaningful campaigns on behalf of their candidates in the fall election. Moreover, the parties have demonstrated financial strength despite the unprecedented fundraising efforts of their presumptive presidential nominees and unrestricted fundraising by so-called 527 committees and other nonparty organizations in the quest for campaign dollars in the hotly contested race for the White House.

After 15 months in the 2004 election cycle, the national parties have raised a total of $433 million in hard money alone, compared to $373 million in hard and soft money combined at this point in the 2000 campaign. Every one of the six national committees has substantially increased its hard dollar fundraising in response to the ban on soft money. The Republican committees have replaced all of the $86 million in soft money they had solicited by March of 2000 with hard dollar contributions subject to federal limits. The Democratic committees, which were much more dependent on soft money than their Republican counterparts, raising more than half of their funds from soft contributions at this point in 2000, have already replaced most of their soft money receipts with new hard dollar contributions.

This surge in national party fundraising is the result of a substantial increase in the number of individual contributors that have been added to party rolls. While the higher contribution limits for national party committees adopted under BCRA (up to $57,500 per person every two years) have produced millions of additional dollars for these committees, the vast majority of the increase in party hard money receipts is a result of the extraordinary growth in the number of small donors on both sides of the aisle.(1) No longer able to solicit unlimited soft money donations, the parties are investing more resources in direct mail, telemarketing, and Internet fundraising, with notable success in soliciting small contributions of less than $200. The RNC, which for decades has had the largest donor base of any of the party committees, has added more than a million new donors to its rolls since 2001.(2) The NRCC, in 2003 alone, recruited more than 400,000 new contributors.(3) The DNC has increased its number of direct mail donors from 400,000 in 2001 to more than 1.2 million so far in 2004, and increased its number of email addresses from 70,000 to more than 3 million. In the first four months of this year, the DNC posted 35 million pieces of fundraising mail, which, according to DNC Chairman Terry McAuliffe, exceeded the amount of fundraising mail posted by the committee ''in the entire decade of the 1990s.''(4)

As anticipated by most observers, the Republicans have proved to be more successful in raising hard dollars than the Democrats, outraising the Democrats by a margin of two-to-one and increasing the fundraising gap between the parties. Overall, the Republican committees collected $288 million during the course of the first 15 months of this cycle, as compared to $216 million in hard and soft money combined four years ago. The Democratic committees took in $145 million, as compared to $157 million in hard and soft money combined four years ago. The Republicans have more than doubled last cycle's hard money total, while the Democrats have almost doubled their hard money receipts, increasing their take by 89 percent. The most recent quarter, however, suggests that the Democrats' investments in small donor fundraising are paying off and that the party may be beginning to narrow the gap. In the first quarter of this election year, the Democrats received $50 million as opposed to $82 million by the Republicans, and recent reports suggest that fundraising on the Democratic side continues to strengthen.(5)

Even so, the Republicans have increased their financial advantage as compared to four years ago, when the Democrats controlled the White House. The gap has grown from about $59 million to $143 million. The Republicans are therefore likely to have an even greater financial advantage over the Democrats than they did four years ago. In 2000, the Republican national party committees received approximately $346 million in hard money, as opposed to $204 million for their Democratic opponents.

The gap between Republicans and Democrats is much narrower in terms of cash available to spend in the months ahead. As of the end of March, the Republican committees had almost $86 million of net cash available to spend, led by the RNC, which has a cash balance of $54 million. The Democrats had $43 million available to spend, led by the DNC, which had $27 million in cash. The expenditure-to-cash ratios for each party are now roughly equivalent, with the Republicans raising twice as much as the Democrats and generating twice as much net cash.

When BCRA was adopted, many observers expressed concern that the law would weaken the parties by depriving them of the resources needed to mount viable campaigns on behalf of their candidates. Yet, to date, the parties have proven that they can effectively adjust to a hard money world. They have altered their strategies and ended their reliance on soft money, replacing large soft money donations with thousands of small individual gifts.

The rise of a number of federal-election-related 527 organizations, which are not wholly subject to federal contribution limits and may raise funds from unlimited sources in unlimited amounts, has not dimmed the resources available to the parties. So far, the monies raised and spent by these committees represents only a portion of the monies the party committees have received, and a relatively small share of the total resources spent so far in this year's federal elections. In the first 15 months of this cycle, the national parties raised $433 million. State and local party committees collected more than $94 million for federal election activity, including $59 million by Republican committees and $35 million by Democratic committees. The presidential contenders, George Bush and John Kerry, took in more than $270 million. Congressional candidates garnered

$583 million, or 35 percent more than they raised at this point two years ago.(6) The major new 527 organizations active in federal elections in the aftermath of BCRA (Joint Victory Committee 2004, Media Fund, Americans Coming Together, MoveOn.org, and America Votes) raised slightly more than $47 million, while Club for Growth, a conservative group, generated more than $5 million.(7)

To what extent this will change in the aftermath of the FEC's May 13 decision to defer immediate action on proposed regulations for 527 groups remains to be seen. But it now appears that the parties are benefiting from the deep partisan divide within the country and the high level of competition in the presidential race, which is spurring tens of thousands of individuals to contribute to their preferred party for the first time. This suggests that the funds spent by nonparty groups will supplement, rather than overshadow, the role of the parties in 2004.

ADDITIONAL STATEMENTS

TRIBUTE TO BETTY STRONG

• Mr. HARKIN. Mr. President, earlier this month, Sioux City, IA, lost one of its most passionate and beloved community leaders, Betty Strong.

Betty was an adopted daughter of Iowa—she was born and raised in Missouri—but she became a true Iowan, through and through. She moved to Sioux City in 1953, and for the next half century she worked tirelessly for her community and as an activist in the Democratic Party. She was one of those people who always strove to make a positive difference in the lives of those around her, and Betty succeeded magnificently.

Betty's understanding and passion for politics made her an invaluable participant in countless State, local, and national campaigns. She was a delegate for Vice President Walter Mondale at the 1984 Democratic National Convention, and participated in Senator JOSEPH BIDEN's 1988 Presidential campaign in Iowa. In 2000, she coordinated Iowans for Gore.

I met Betty more than 20 years ago and she quickly became a very dear friend and trusted political counselor. She was my chief supporter and organizer in Sioux City during my first campaign for the Senate.

In 1976, Betty became the first woman to be elected chairperson of the Woodbury County Democratic Party, and she also served on a variety of other local Democratic and women's organizations.

Betty's tireless organizing and campaigning in the late 1980s helped to win the vote to build four new high schools and a juvenile detention center in Sioux City. From 1989 until her death, Betty served as the president of the Missouri River Historical Development Inc., a nonprofit group that built the $4 million Sioux City Lewis and Clark Interpretive Center. Betty was very proud of that center, which, she said, ''brings history alive for people of all ages.''

The list of Betty's accomplishments runs long, and is a testament to all she has done to better the lives of the people around her. She was involved in politics for all the right reasons. She wasn't seeking fame. She simply wanted a government that worked for all people. Betty Strong embodied the qualities and spirit that people in my State cherish.

Our thoughts and prayers go out to Betty's husband Darrell, their children Sharon, Jackie, and Marvin, and their spouses. Iowans are deeply indebted to Betty for her devotion to public service. We will miss her greatly.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 Committee on Armed Services.

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

NOTIFICATION OF THE PRESIDENT'S INTENT TO ENTER INTO A FREE TRADE AGREEMENT WITH THE GOVERNMENT OF BAHRAIN—PM 86

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

Consistent with section 2105(a)(1)(A) of the Trade Act of 2002, (Public Law 107–210; the ''Trade Act''), I am pleased to notify the Congress of my intent to enter into a Free Trade Agreement (FTA) with the Government of Bahrain.

This agreement will create new opportunities for America's workers, farmers, businesses, and consumers by eliminating barriers in trade with Bahrain. Entering into an FTA with Bahrain will not only strengthen our bilateral ties with this important ally, it will also advance my goal of a U.S.-Middle East Free Trade Area (MEFTA) by 2013.

Consistent with the Trade Act, I am sending this notification at least 90 days in advance of signing the United States-Bahrain FTA. My Administration looks forward to working with the Congress in developing appropriate legislation to approve and implement this free trade agreement.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 15, 2004.*

MESSAGE FROM THE HOUSE

At 12:58 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which its requests the concurrence of the Senate:

H.R. 2010. An act to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes.

H.R. 2055. An act to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

H.R. 3378. An act to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

H.R. 3504. An act to amend the Indian Self-Determination and Education Assistance Act to redesignate the American Indian Education Foundation as the National Fund for Excellence in American Indian Education.

H.R. 3658. An act to amend the Public Health Service Act to strengthen education, prevention, and treatment programs relating to stroke, and for other purposes.

H.R. 4061. An act to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries.

H.R. 4103. An act to extend and modify the trade benefits under the African Growth and Opportunity Act.

H.R. 4278. An act to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

H.R. 4322. An act to provide for the transfer of the Nebraska Avenue Naval Complex in the District of Columbia to facilitate the establishment of the headquarters for the Department of Homeland Security, to provide for the acquisition by the Department of the Navy of suitable replacement facilities, and for other purposes.

H.R. 4323. An act to amend title 10, United States Code, to provide rapid acquisition authority to the Secretary of Defense to respond to combat emergencies.

H.R. 4417. An act to modify certain deadlines pertaining to machine-readable, tamper-resistant entry and exit documents.

H.J. Res. 97. Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

The message also announced that the House had agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 62. Concurrent resolution expressing the sense of Congress that Katherine Dunham should be recognized for her groundbreaking achievements in dance, theater, music, and education, as well as for her work as an activist striving for racial equality throughout the world.

H. Con. Res. 63. Concurrent resolution expressing the sense of Congress that Lionel Hampton should be honored for his contributions to American music.

H. Con. Res. 260. Concurrent resolution recognizing and honoring the service of those who volunteer their time to participate in funeral honor guards at the interment or memorialization of deceased veterans of the uniformed services of the United States at national cemeteries across the country.

H. Con. Res. 439. Concurrent resolution honoring the members of the Army Motor Transport Brigade who during World War II

served in the trucking operation known as the Red Ball Express for their service and contribution to the Allied advance following the D-Day invasion of Normandy, France.

The message further announced that the House has passed the following bill, with an amendment:

S. 1663. An act to replace certain Coastal Barrier Resources System maps.

ENROLLED BILLS SIGNED

At 1:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker, during the recess of the Senate, had signed the following enrolled bills:

H.R. 1822. An act to designate the facility of the United States Postal Service located at 3751 West 6th Street in Los Angeles, California, as the ''Dosan Ahn Chang Ho Post Office''.

H.R. 2130. An act to redesignate the facility of the United States Postal Service located at 121 Kinderkamack Road in River Edge, New Jersey, as the ''New Bridge Landing Post Office''.

H.R. 2438. An act to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the ''Major Henry A. Commiskey, Sr. Post Office Building''.

H.R. 3029. An act to designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the ''S. Truett Cathy Post Office Building''.

H.R. 3059. An act to designate the facility of the United States Postal Service located at 304 West Michigan Street in Stuttgart, Arkansas, as the ''Lloyd L. Burke Post Office''.

H.R. 3068. An act to designate the facility of the United States Postal Service located at 2055 Siesta Drive in Sarasota, Florida, as the ''Brigadier General (AUS-Ret.) John H. McLain Post Office''.

H.R. 3234. An act to designate the facility of the United States Postal Service located at 14 Chestnut Street in Liberty, New York, as the ''Ben R. Gerow Post Office Building''.

H.R. 3300. An act to designate the facility of the United States Postal Service located at 15500 Pearl Road in Strongsville, Ohio, as the ''Walter F. Ehrnfelt, Jr. Post Office Building''.

H.R. 3353. An act to designate the facility of the United States Postal Service located at 525 Main Street in Tarboro, North Carolina, as the ''George Henry White Post Office Building''.

H.R. 3536. An act to designate the facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, as the ''Army Staff Sgt. Lincoln Hollinsaid Malden Post Office''.

H.R. 3537. An act to designate the facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois, as the ''Army Pvt. Shawn Pahnke Manhattan Post Office''.

H.R. 3538. An act to designate the facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, as the ''Marine Capt. Ryan Beaupre Saint Anne Post Office''.

H.R. 3690. An act to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the ''Barber Conable Post Office Building''.

H.R. 3733. An act to designate the facility of the United States Postal Service located at 410 Huston Street In Altamont, Kansas, as the ''Myron V. George Post Office''.

H.R. 3740. An act to designate the facility of the United States Postal Service located at 223 South Main Street In Roxboro, North Carolina, as the ''Oscar Scott Woody Post Office Building''.

H.R. 3769. An act to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the ''Ben Atchley Post Office Building''.

H.R. 3855. An act to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the ''General John J. Pershing Post Office''.

H.R. 3917. An act to designate the facility of the United States Postal Service located at 695 Marconi Boulevard in Copiague, New York, as the ''Maxine S. Postal United States Post Office''.

H.R. 3939. An act to redesignate the facility of the United States Postal Service located at 14–24 Abbott Road in Fair Lawn, New Jersey, as the ''Mary Ann Collura Post Office Building''.

H.R. 3942. An act to redesignate the facility of the United States Postal Service located at 7 Commercial Boulevard in Middletown, Rhode Island, as the ''Rhode Island Veterans Post Office Building''.

H.R. 4037. An act to designate the facility of the United States Postal Service located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the ''Richard G. Wilson Processing and Distribution Facility''.

H.R. 4176. An act to designate the facility of the United States Postal Service located at 122 West Elwood Avenue in Raeford, North Carolina, as the ''Bobby Marshall Gentry Post Office Building''.

H.R. 4299. An act to designate the facility of the United States Postal Service located at 410 South Jackson Road in Edinburg, Texas, as the ''Dr. Miguel A. Nevarez Post Office Building''.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

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

H.R. 2010. An act to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes.

H.R. 2055. An act to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore; to the Committee on Energy and Natural Resources.

H.R. 3658. An act to amend the Public Health Service Act to strengthen education, prevention, and treatment programs relating to stroke, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 4061. An act to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries; to the Committee on Foreign Relations.

H.R. 4323. An act to amend title 10, United States Code, to provide rapid acquisition authority to the Secretary of Defense to respond to combat emergencies; to the Committee on Armed Services.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 62. Concurrent resolution expressing the sense of Congress that Katherine Dunham should be recognized for her groundbreaking achievements in dance, theater, music, and education, as well as for her work as an activist striving for racial equality throughout the world; to the Committee on the Judiciary.

H. Con. Res. 63. Concurrent resolutions expressing the sense of Congress that Lionel Hampton should be honored for his contributions to American music; to the Committee on the Judiciary.

H. Con. Res. 260. Concurrent resolution recognizing and honoring the service of those who volunteer their time to participate in funeral honor guards at the interment or memorialization of deceased veterans of the uniformed services of the United States at national cemeteries across the country; to the Committee on Veterans' Affairs.

H. Con. Res. 439. Concurrent resolution honoring the members of the Army Motor Transport Brigade who during World War II served in the trucking operation known as the Red Ball Express for their service and contribution to the Allied advance following the D-Day invasion of Normandy, France; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar; pursuant to Public Law 108–61, section 9(c)(2)(B):

H.J. Res. 97. Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

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–7920. A communication from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting, pursuant to law, the Department's report on Fiscal Year 2003 competitive sourcing efforts under the Consolidated Appropriations Act, Fiscal Year 2004; to the Committee on Energy and Natural Resources.

EC–7921. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, the Administration's International Energy Outlook 2004 (IEO2004); to the Committee on Energy and Natural Resources.

EC–7922. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation, entitled the ''Harry S. Truman National Historic Site Boundary Adjustment Act'' ; to the Committee on Energy and Natural Resources.

EC–7923. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Inspection of Allot 82/182/600 Materials Used in the Fabrication of Pressurizer Penetrations and Stream Space Piping Connections at Pressurized-Water Reactors'' (NRC Bulletin 2004–01) received on June 7, 2004; to the Committee on Environment and Public Works.

EC–7924. A communication from the Assistant Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Disclosure of Breakpoint Discounts by Mutual Funds'' (RIN3235–

AI95) received on June 9, 2004; to the Committee on Finance.

EC–7925. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Timber Fertilization Expenses'' (Rev. Rul. 2004–62) received on June 9, 2004; to the Committee on Finance.

EC–7926. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Preproduction Costs of Creative Property'' (Rev. Rul. 2004–58) received on June 9, 2004; to the Committee on Finance.

EC–7927. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Preproduction Costs of Creative Properties Safe Harbor Amortization'' (Rev. Proc . 2004–36) received on June 9, 2004; to the Committee on Finance.

EC–7928. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–7929. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the Egypt Economic Report to the Congress; to the Committee on Foreign Relations.

EC–7930. A communication from the Assistant Secretary for 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 sold commercially under a contract in the amount of $1,000,000 or more to Colombia; to the Committee on Foreign Relations.

EC–7931. A communication from the Assistant Secretary for 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 the Republic of Korea and Germany; to the Committee on Foreign Relations.

EC–7932. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license agreement for the manufacture of significany military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–7933. A communication from the Assistant Secretary for 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 and the United Kingdom; to the Committee on Foreign Relations.

EC–7934. A communication from the Assistant Secretary for 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 Belgium and The Netherlands; to the Committee on Foreign Relations.

EC–7935. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–7936. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, the Board's Semiannual Report to Congress for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7937. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, a report relative to the Commission's internal control systems and their compliance with the provisions of the Federal Managers Financial Integrity Act; to the Committee on Governmental Affairs.

EC–7938. A communication from the Chairman, National Science Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7939. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled ''Methods of Withdrawing Funds from the Thrift Savings Plan; Court Orders and Legal Processes Affecting Thrift Savings Plan Accounts; Loan Program; Thrift Savings Plan'' received on June 9, 2004; to the Committee on Governmental Affairs.

EC–7940. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 8D for Fiscal Years 2000 Through 2003, as of March 31, 2003''; to the Committee on Governmental Affairs.

EC–7941. A communication from the Federal Co-chair, Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7942. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7943. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Commerce from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7944. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Change in Federal Wage System Survey Job'' (RIN3206–AJ79) received on June 9, 2004; to the Committee on Governmental Affairs.

EC–7945. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Computation of Overtime Pay'' received on June 9, 2004; to the Committee on Governmental Affairs.

EC–7946. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Physicians' Comparability Allowances'' (RIN3206–AJ96) received on June 9, 2004; to the Committee on Governmental Affairs.

EC–7947. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Office's Annual report to Congress on its competitive sourcing accomplishments; to the Committee on Governmental Affairs.

EC–7948. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7949. A communication from the Administrator, U.S. Agency for International Development, transmitting, pursuant to law, the report of the office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7950. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Education from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S.J. Res. 39. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

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. NELSON of Nebraska:

S. 2518. A bill to amend the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act to make the consent of Congress to certain compacts contingent on party states sharing the long-term liability for damages caused by radioactive releases from regional facilities; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Mrs. HUTCHISON, Ms. CANTWELL, Ms. SNOWE, Mrs. FEINSTEIN, Ms. COLLINS, Mrs. MURRAY, Mrs. DOLE, Ms. LANDRIEU, Ms. MURKOWSKI, Mrs. LINCOLN, Mrs. CLINTON, Ms. STABENOW, and Mrs. BOXER):

S. 2519. A bill to authorize assistance for education and health care for women and children in Iraq during the reconstruction of Iraq and thereafter, to authorize assistance for the enhancement of political participation, economic empowerment, civil society, and personal security for women in Iraq, to state the sense of Congress on the preservation and protection of the human rights of women and children in Iraq, and for other purposes; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself, Mr. CORZINE, Ms. MIKULSKI, Mrs. MURRAY, Mr. DURBIN, Mr. AKAKA, and Mr. FEINGOLD):

S. 2520. A bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS:

S. 2521. A bill to suspend temporarily the duty on certain rayon staple fibers; to the Committee on Finance.

By Mr. CORZINE:

S. 2522. A bill to amend title 38, United States Code, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs, and for

other purposes; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. INHOFE, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 1139

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1139, a bill to direct the National Highway Traffic Safety Administration to establish and carry out traffic safety law enforcement and compliance campaigns, and for other purposes.

S. 1411

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1411, supra.

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1411, supra.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1737

At the request of Mr. WYDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1737, a bill to amend the Clayton Act to enhance the authority of the Federal Trade Commission or the Attorney General to prevent anticompetitive practices in tightly concentrated gasoline markets.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 1897

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1897, a bill to amend title XVIII of the Social Security Act to provide a clarification of congressional intent regarding the counting of residents in a nonprovider setting for purposes making payment for medical education under the medicare program.

S. 2015

At the request of Ms. CANTWELL, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2015, a bill to prohibit energy market manipulation.

S. 2159

At the request of Mr. SESSIONS, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2159, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 2302

At the request of Mr. CONRAD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2328

At the request of Mr. DORGAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2328, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 2338

At the request of Mr. BOND, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2449

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2449, a bill to require congressional renewal of trade and travel restrictions with respect to Cuba.

S. 2461

At the request of Mr. DEWINE, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2461, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S.J. RES. 37

At the request of Mr. BROWNBACK, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S.J. Res. 37, a bill to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian Tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 74

At the request of Mrs. CLINTON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Con. Res. 74, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued as a testimonial to the Nation's tireless commitment to reuniting America's missing children with their families, and to honor the memories of those children who were victims of abduction and murder.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 361

At the request of Mr. CHAMBLISS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 361, a resolution supporting the goals of National Marina Day and urging marinas to continue providing environmentally friendly gateways to boating.

AMENDMENT NO. 3183

At the request of Mrs. MURRAY, her name was added as a cosponsor of amendment no. 3183 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction , and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

At the request of Mr. SMITH, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of amendment no. 3183 proposed to S. 2400, supra.

AMENDMENT NO. 3192

At the request of Mr. LEVIN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of amendment no. 3192 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3251

At the request of Mr. BOND, his name was added as a cosponsor of amendment no. 3251 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3263

At the request of Mr. KENNEDY, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment no. 3263 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and

for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3296

At the request of Mr. SARBANES, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment no. 3296 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3301

At the request of Mr. NELSON of Nebraska, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. PRYOR), the Senator from South Dakota (Mr. JOHNSON) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of amendment no. 3301 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3313

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment no. 3313 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3367

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment no. 3367 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3377

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment no. 3377 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3412

At the request of Mr. KENNEDY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment no. 3412 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3437

At the request of Mr. BUNNING, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment no. 3437 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself, Mrs. HUTCHISON, Ms. CANTWELL, Ms. SNOWE, Mrs. FEINSTEIN, Ms. COLLINS, Mrs. MURRAY, Mrs. DOLE, Ms. LANDRIEU, Ms. MURKOWSKI, Mrs. LINCOLN, Mrs. CLINTON, Ms. STABENOW, and Mrs. BOXER):

S. 2519. A bill to authorize assistance for education and health care for women and children in Iraq during the reconstruction of Iraq and thereafter, to authorize assistance for the enhancement of political participation, economic empowerment, civil society, and personal security for women in Iraq, to state the sense of Congress on the preservation and protection of the human rights of women and children in Iraq, and for other purposes; to the Committee on Foreign Relations.

Ms. MIKULSKI. Mr. President, I am proud to join with my colleague Senator KAY BAILEY HUTCHISON—and the 12 other women of the United States Senate—to introduce the Iraqi Women's and Children's Liberation Act. This legislation authorizes the President to give education, health care benefits and other help to the women and children of Iraq, including ensuring the political participation of women in a new democratic Iraq.

Before Saddam Hussein came to power, Iraq was the progressive center of the Middle East. In the 1940s, Iraqi women were lawyers, physicians, teachers, professors, engineers, scientists, prominent writers, artists and poets. By the late 1950's, women in Iraq enjoyed political freedoms with equal protections under the law and the right to vote.

Under Saddam Hussein, all that changed. Women lost opportunities for education. They were forced out of the work force. Women and children did not have access to health care. The personal rights of women were severely restricted or ignored as Saddam's government sanctioned ''honor killings'' and rape as a tool of oppression.

The facts speak for themselves. Today, women make up only 17 percent of the Iraqi workforce. Only 29 percent of Iraqi girls attend high school. Illiteracy among Iraqi women is an astronomical 77 percent, compared to 45 percent for men. Death during childbirth or from pregnancy related complications is the leading cause of death of Iraqi women. Health organizations estimate that 90 percent of these deaths are preventable. Right now, 25 percent of the children under the age of 5 in Iraq are malnourished and 1 in 8 dies even before they reach that age.

As America works to help the Iraqi people build a free and democratic nation, it is vitally important that education and health care for women and children are assured. If we are helping create a new government, let us insist that there not be the old rules, the old repression.

Of equal importance is ensuring that women have a seat at the table in a new Iraqi government. Full political participation by women is the best insurance that women's rights will be respected now and in the future.

These are the two important components of our legislation: first, it authorizes the President to provide education and health care assistance for the women and children living in Iraq and to women and children of Iraq who are refugees in other countries. When our own government and the NGOs come in, they should focus significant efforts on making sure women and children have access to education and health care. They should also do their best to partner with and build the capacity of local NGOs to strengthen Iraq's civil society.

Second, it authorizes the President to provide assistance enhancing the political participation, economic empowerment and personal security of Iraqi women. For Iraq to truly be liberated, its women must have a voice in the new political and governmental institutions.

This legislation is really about opportunity-making sure the women and children in Iraq have the opportunity to live productive lives and fulfill their potential, and making sure Iraq has the opportunity to succeed as a democratic nation by tapping the talents of all its citizens. The road to opportunity starts with access to health care so children can thrive and women can raise healthy families. It continues with education to gain the skills and knowledge necessary to support that family and contribute to society as a whole. One of the most important ways to contribute to society is through political participation—whether that means voting, running for office, working in a government agency, or organizing for a cause or a community.

While building the physical infrastructure in Iraq—things like roads, bridges, and power plants—is important, we also need to focus on the social infrastructure that protects women and children and builds hope and opportunity. That is the goal of this legislation.

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

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

S. 2519

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 ''Iraqi Women and Children's Liberation Act of 2004''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) For more than 600 years under the Ottoman Empire, women in Iraq were kept inside their homes, repressed, and forbidden to be seen in public without a related male escort.

(2) The Sevres Treaty of 1919, following World War I, installed a new monarchy in Iraq under which education for boys and girls flourished.

(3) Within a span of 20 years, 6 centuries of repression of women in Iraq was reversed. Thousands of women in Iraq became lawyers, physicians, educators, teachers, professors, engineers, prominent writers, artists, and poets, demonstrating the impact of progressive policies on the ability of women in Iraq to achieve.

(4) In 1941, women in Iraq earned equal wages for equal jobs, an achievement still not duplicated in most parts of the world.

(5) On July 14, 1958, the monarchy in Iraq was overthrown by General Abdul-Karim Kasim, who enfranchised women in Iraq with political rights.

(6) In 1959, Iraq became the first country in the Middle East to have a female minister, four female judges, prominent scientists, politicians, and freedom fighters.

(7) The 1959 Code of Personal Status secularized the multi-ethnic state of Iraq. Women enjoyed political and economic rights, successfully participating in the workforce as well as advancing in the political sphere. Women had the right to receive an education and work outside the home. Women were career military officers, oil-project designers, and construction supervisors, and had government jobs in education, medicine, accounting, and general administration.

(8) The Code of Personal Status also granted women extensive legal protections. It gave women the right to vote and granted equal status to men and women under the law. It prohibited marriage by persons under the age of 18 years, arbitrary divorce, and male favoritism in child custody and property inheritance disputes.

(9) The regime of Saddam Hussein regularly used rape and sexual violation of women to control information and suppress opposition in Iraq and tortured and killed female dissidents and female relatives of male dissidents.

(10) The Department of State has reported that more than 200 women in Iraq were beheaded by units of ''Fedayeen Saddaam'', a paramilitary organization headed by Uday Hussein.

(11) After the 1990 invasion of Kuwait, the regime of Saddam Hussein imposed policies that resulted in severe economic hardship, discrimination, impoverishment, and oppression of women in Iraq. Many women were prevented from working. Presently, women comprise as much as 65 percent of the population of Iraq, but only 19 percent of the workforce.

(12) Men who killed female relatives in ''honor killings'' were protected from prosecution for murder under Article 111 of the Iraqi Penal Code enacted in 1990. The United Nations Special Rapporteur on Violence Against Women has reported that since the enactment of that article, more than 4,000 women were killed for tarnishing the honor of their families, with the killings occurring by a range of methods that included stoning.

(13) Maternal mortality is the leading cause of death among women of reproductive age in Iraq, and it continues to rise due to lack of basic health care. The maternal mortality rate in Iraq of 292 deaths per 100,000 live births compared with a maternal mortality rate in the United States of 8 deaths per 100,000 live births. 90 percent of the maternal deaths in Iraq are identified as preventable.

(14) More than 48 percent of the population of Iraq is under the age of 18 years. One in four children of the age of 5 years or younger is chronically malnourished. One in eight children dies before the age of 5 years, the highest rate of mortality among children under that age in the region. Some estimate the total rate of child mortality in Iraq to be as high as 13 percent.

(15) Girls and women in Iraq have meager educational opportunities relative to the opportunities available to men and boys in Iraq, and twice as many boys as girls in Iraq attend school. 29 percent of females attend secondary school as compared with 47 percent of males. The illiteracy rate in Iraq is the highest in the Arab world at 61 percent for the general population, 77 percent for women, and 45 percent for men.

(16) Press accounts indicate that many women in Iraq are being pressured to adhere to strict Islamic codes that restrict their mobility and impinge on their human rights.

(17) Security for women in Iraq is an issue of grave concern. Women are afraid to leave their homes or to send their daughters to school.

(18) Women in leadership positions in Iraq are vulnerable to attack. One of the three women on the Iraqi Governing Council was assassinated, and another has a $2,000,000 bounty on her head.

(19) Women from the autonomous Kurdish region travel freely, hold important jobs and political positions, and perform a key role in the revival of the areas of Iraq that have been under Kurdish control. The integration of women in the economic and political spheres of the region provides a contrast to the rest of Iraq and serves as an example of what is possible in Iraq.

(20) According to the 2003 Arab Human Development Report of the United Nations, pervasive exclusion of women from the political, economic, and social spheres hampers development and growth in Arab countries.

(21) Ambassador L. Paul Bremer, the Presidential Envoy to Iraq, has voiced his support of women in Iraq in stating that ''[w]e in the coalition are committed to continuing to promote women's rights in Iraq.''

(22) Women have participated in planning for Iraq's political future in the following way:

(A) 3 out of 25 people on the Iraqi Governing Council are women.

(B) One of the government ministries is led by a woman. 16 of the 25 deputy minister positions are held by women.

(C) 15 of the 1,000 nationally-appointed judges are women.

(23) Resolution 137 was adopted in a closed session (sponsored by conservative Shiite members) on December 29, 2003, with the intent of reversing family law. The adoption of that resolution threatened negative impacts on the rights of women to education, employment, mobility, property inheritance, divorce, and child custody.

(24) Ambassador Bremer, who has veto power, stated that he would not sign Resolution 137 into law.

(25) The Iraqi Governing Council revoked Resolution 137 on February 27, 2004, in part due to pressure from women's groups. However some members of the Governing Council walked out to protest this action.

(26) The Transitional Administrative Law (TAL) that establishes the framework for the interim government of Iraq was officially signed on March 8, 2004. It aims to achieve a goal of having women constitute not less than 25 percent of the members of Iraq's interim legislature. It does not express a goal for a representation rate for women in the executive or judicial branch of the interim government. It also provides that Sharia, the Islamic law, can be a source, but not the only source, of Iraqi law.

(27) United States officials propose to turn over political power to Iraqis on June 30, 2004. Some factions have already voiced strong objection to the TAL and could press ahead with their goal of making Sharia the supreme law of Iraq.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States should ensure that women and children in Iraq benefit from the liberation of Iraq from the regime of Saddam Hussein;

(2) women of all ethnic groups in Iraq should be included in the economic and political reconstruction of Iraq;

(3) women should be involved in the drafting and review of the key legal instruments, especially the constitution, of the emerging nation in Iraq in order to ensure that the transition to that nation does not involve or facilitate the erosion of the rights of women in Iraq;

(4) women should have membership in any legislature or other committee, body, or structure convened to advance the reconstruction of Iraq that builds on the goal provided for in the Transitional Administrative Law;

(5) women should have a similar level of representation in leadership posts in all levels of government in Iraq, including ministers and judges, whether local or national, and women should be integrated in all levels of political process in Iraq, especially the building of political parties;

(6) the presence of women on the Iraqi Governing Council should better represent the percentage of women in the general population of Iraq;

(7) the participation and contribution of women to the economy of Iraq should be fostered by awarding contracts and sub-contracts to women and women-led businesses and by ensuring the availability of credit for women;

(8) continued emphasis and support should be granted to grass-roots organization and civil society building in Iraq, with special emphasis on organizing, mobilizing, educating, training, and building the capacities of women and ensuring the incorporation of their voices in decision-making in Iraq;

(9) the security needs of women in Iraq should be addressed and special emphasis placed on recruiting and training women for the police force in Iraq; and

(10) the Government of Iraq should adhere to internationally accepted standards on human rights and rights of women and children.

SEC. 4. AUTHORIZATION OF ASSISTANCE.

(a) EDUCATION AND HEALTH CARE ASSISTANCE FOR WOMEN AND CHILDREN.—The President is authorized to provide education and health care assistance for the women and children living in Iraq and to women and children of Iraq who are refugees in other countries.

(b) ENHANCEMENT OF POLITICAL PARTICIPATION, ECONOMIC EMPOWERMENT, CIVIL SOCIETY, AND PERSONAL SECURITY OF WOMEN.—The President is authorized to provide assistance for the enhancement of political participation, economic empowerment, civil society, and personal security of women in Iraq.

(c) SENSE OF CONGRESS ON PROVISION OF AUTHORIZED ASSISTANCE.—It is the sense of Congress that the President should ensure that assistance is provided under subsections (a) and (b) in a manner that protects and promotes the human rights of all people in Iraq, utilizing indigenous institutions and nongovernmental organizations, especially women's organizations, to the extent possible.

(d) SENSE OF CONGRESS ON PROMOTION OF HUMAN RIGHTS IN PROVISION OF ASSISTANCE TO GOVERNMENT OF IRAQ.—In providing assistance to the government of Iraq, the President should ensure that such assistance is conditioned on the government of Iraq making continued progress toward internationally accepted standards of human rights and the rights of women.

(e) REPORTS.—Not later than six months after the date of the enactment of this Act, and every six months thereafter during the three-year period beginning on such date, the Secretary of State shall submit to the appropriate congressional committees a report that sets forth the following:

(1) A comprehensive description and assessment of the conditions and status of women and children in Iraq as of the date of the report, including a description of any changes in such conditions and status during the six-month period ending on such date.

(2) A statement of the number of women and children of Iraq who are in refugee camps throughout the Middle East as of the date of such report, a description of their conditions as of such date, and a description of any changes in such conditions during the six-month period ending on such the date.

(3) A statement the expenditures of the United States Government during the six-month period ending on the date of such report to promote the education, health, security, human rights, opportunities for employment, judicial and civil society involvement and political participation of women in Iraq.

(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committees on Appropriations and Foreign Relations of the Senate; and

(2) the Committees Appropriations and International Relations of the House of Representatives.

By Mr. CORZINE:

S. 2522. A bill to amend title 38, United States Code, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CORZINE. Mr. President, I rise to introduce legislation to increase the VA home loan guaranty so that veterans participating in the program may secure a mortgage comparable to what they could obtain in the conventional mortgage market.

The VA home loan guaranty program, which Congress created in 1944, has assisted millions of veterans—many of whom missed the opportunity to accumulate savings or build credit during their time of service—purchase a home. Under the program, an eligible veteran may purchase a home through a private lender and the VA guarantees to pay the lender a portion of the losses if the veteran defaults on the loan.

Unfortunately, the VA currently only guarantees a maximum of $60,000 on a loan. This means, effectively, that a lender will only loan four times the amount of the guaranty, or $240,000, to a veteran seeking a home loan.

While a loan of this size is sufficient to assist many veterans in purchasing a home, it is insufficient for many other veterans, particularly those living in high cost areas, like my state of New Jersey. In most places in my State, the cost of purchasing a home exceeds $240,000. For example, the median home sale price is Newark, New Jersey in 2003, was $331,200. In Middlesex, Hunterdon, and Somerset, the median sales price in 2003, was $314,000.

Thus, unfortunately for many veterans living in these high cost areas, the VA home loan program is inaccessible because the guaranty is so low.

My legislation would increase the VA guaranty to 25 percent of the Freddie Mac conforming loan limit, or $83,425. With such an increase, a participating veteran could borrow up to $333,700—which is the conventional loan limit—towards the purchase of a home. And, because Freddie Mac updates its conforming loan limit annually to account for changes in average housing prices, pegging the VA home loan guaranty to this index would ensure that the guaranty and available mortgage limits rise with housing inflation.

My legislation, which the House Veterans Affairs Committee recently approved, would ensure that more veterans have a chance at the American Dream of owning a home. What is more, my legislation would not cost the U.S. Treasury a cent. In fact, according to the Congressional Budget Office (CBO), it would raise approximately $42 million a year, through increased user fees associated with the VA home loan program.

This legislation is simple, it's cost effective, and it would assist our veterans, who have traded years of traditional employment to serve our country, purchase a home. I hope that my colleagues will join me in supporting this important piece of legislation.

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

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

S. 2522

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

SECTION 1. INCREASE IN MAXIMUM AMOUNT OF HOME LOAN GUARANTY FOR CONSTRUCTION AND PURCHASE OF HOMES AND ANNUAL INDEXING OF AMOUNT.

(a) MAXIMUM LOAN GUARANTY BASED ON 100 PERCENT OF FREDDIE MAC CONFORMING LOAN RATE.—Section 3703(a)(1) of title 38, United States Code, is amended by striking ''$60,000'' each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting ''the maximum guaranty amount (as defined in subparagraph (C))''.

(b) DEFINITION.—Such section is further amended by adding at the end the following new subparagraph:

''(C) In this paragraph, the term 'maximum guaranty amount' means the dollar amount that is equal to 25 percent of the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3450. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. REED (for himself, Mr. HAGEL, Mr. MCCAIN, Mr. CORZINE, Mr. AKAKA, and Mr. BIDEN) to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

SA 3451. Mr. WARNER (for Mr. SHELBY) proposed an amendment to the bill S. 2238, to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

TEXT OF AMENDMENTS

SA 3450. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. REED (for himself, Mr. HAGEL, Mr. MCCAIN, Mr. CORZINE, Mr. AKAKA, and Mr. BIDEN) to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike line 2 and insert the following:

''502,400, subject to the condition that the costs of active duty personnel of the Army in excess of 482,400 shall be paid out of funds authorized to be appropriated for fiscal year 2005 for a contingent emergency reserve fund or as an emergency supplemental appropriation''.

SA 3451. Mr. WARNER (for Mr. SHELBY) proposed an amendment to the bill S. 2238, to amend the National Flood Insurance Act of 1968 to reduce losses to the properties for which repetitive flood insurance claim payments have been made; as follows:

On page 2, line 3, strike ''Flood Insurance Reform Act of 2004'' and insert ''Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004''.

On page 7, line 6, insert ''that decide to participate in the pilot program established under this section'' after ''communities''.

On page 7, line 20, strike ''3'' and insert ''4''.

On page 7, line 24, strike ''$3,000'' and insert ''$5,000''.

On page 7, line 26, strike ''$15,000'' and insert ''$20,000''.

On page 8, line 19, strike ''1 foot above''.

On page 8, line 22, strike ''(f)'' and insert ''(g)''.

On page 8, line 25, strike ''1-year period'' and insert ''fiscal year''.

On page 10, between lines 13 and 14, insert the following:

''(e) NOTICE OF MITIGATION PROGRAM.—

''(1) IN GENERAL.—Upon selecting a State or community to receive assistance under subsection (a) to carry out eligible activities, the Director shall notify the owners of a severe repetitive loss property, in plain language, within that State or community—

''(A) that their property meets the definition of a severe repetitive loss property under this section;

''(B) that they may receive an offer of assistance under this section;

''(C) of the types of assistance potentially available under this section;

''(D) of the implications of declining such offer of assistance under this section; and

''(E) that there is a right to appeal under this section.

''(2) IDENTIFICATION OF SEVERE REPETITIVE LOSS PROPERTIES.—The Director shall take such steps as are necessary to identify severe repetitive loss properties, and submit that information to the relevant States and communities.

On page 10, line 14, strike ''(e)'' and insert ''(f)''.

On page 10, line 23, insert '', in a manner consistent with the allocation formula under paragraph (5)'' after ''time''.

On page 11, between lines 3 and 4, insert the following:

''(3) CONSULTATION.—In determining for which eligible activities under subsection (c) to provide assistance with respect to a severe repetitive loss property, the relevant States and communities shall consult, to the extent practicable, with the owner of the property.

''(4) DEFERENCE TO LOCAL MITIGATION DECISIONS.—The Director shall not, by rule, regulation, or order, establish a priority for funding eligible activities under this section that gives preference to one type or category of eligible activity over any other type or category of eligible activity.

''(5) ALLOCATION.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the total amount made available for assistance under this section in any fiscal year, the Director shall allocate assistance to a State, and the communities located within that State, based upon the percentage of the total number of severe repetitive loss properties located within that State.

''(B) REDISTRIBUTION.—Any funds allocated to a State, and the communities within the State, under subparagraph (A) that have not been obligated by the end of each fiscal year shall be redistributed by the Director to other States and communities to carry out eligible activities in accordance with this section.

''(C) EXCEPTION.—Of the total amount made available for assistance under this section in any fiscal year, 10 percent shall be made available to communities that—

''(i) contain one or more severe repetitive loss properties; and

''(ii) are located in States that receive little or no assistance, as determined by the Director, under the allocation formula under subparagraph (A).

On page 11, line 4, strike ''(3)'' and insert ''(6)''.

On page 11, line 9, strike ''(f)'' and insert ''(g)''.

On page 13, line 3, strike ''(g)'' and insert ''(h)''.

On page 16, line 11, strike ''historic places'' and insert ''Historic Places''.

On page 16, after line 25, insert the following:

''(vi) The owner of the property, based on independent information, such as contractor estimates or other appraisals, demonstrates that an alternative eligible activity under subsection (c) is at least as cost effective as the initial offer of assistance.

On page 17, line 22, strike ''that the grounds'' and insert ''in favor of the property owner''.

On page 17, line 24, strike ''make a determination of how much to'' and insert ''require the Director to''.

On page 18, lines 4 through 6, strike ''and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount'' and insert ''to the amount paid prior to the offer to take action under paragraph (1) or (2) of subsection (c)''.

On page 19, line 6, strike ''Flood'' and insert ''Bunning–Bereuter–Blumenauer Flood''.

On page 19, line 16, strike ''(h)'' and insert ''(i)''.

On page 20, between lines 2 and 3, insert the following:

''(j) RULES.—

''(1) IN GENERAL.—The Director shall, by rule—

''(A) subject to subsection (f)(4), develop procedures for the distribution of funds to States and communities to carry out eligible activities under this section; and

''(B) ensure that the procedures developed under paragraph (1)—

''(i) require the Director to notify States and communities of the availability of funding under this section, and that participation in the pilot program under this section is optional;

''(ii) provide that the Director may assist States and communities in identifying severe repetitive loss properties within States or communities;

''(iii) allow each State and community to select properties to be the subject of eligible activities, and the appropriate eligible activity to be performed with respect to each severe repetitive loss property; and

''(iv) require each State or community to submit a list of severe repetitive loss properties to the Director that the State or community would like to be the subject of eligible activities under this section.

''(2) CONSULTATION.—Not later than 90 days after the date of enactment of this Act, the Director shall consult with State and local officials in carrying out paragraph (1)(A), and provide an opportunity for an oral presentation, on the record, of data and arguments from such officials.

On page 20, line 3, strike ''(i)'' and insert ''(k)''.

On page 20, line 7, strike ''2004,''.

On page 20, line 8, strike ''and 2008'' and insert ''2008, and 2009''.

On page 20, line 19, strike ''section 1361A'' and insert ''this section''.

On page 20, line 20, strike ''(j)'' and insert ''(l)''.

On page 20, line 22, strike ''2008'' and insert ''2009''.

On page 22, line 12, strike ''(m)'' and insert ''(l)''.

On page 22, strike line 21 and all that follows through page 23, line 3, and insert the following:

(d) FUNDING.—Section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding $40,000,000, to remain available until expended;'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

''(c) ADMINISTRATIVE EXPENSES.—The Director may use not more than 5 percent of amounts made available under subsection (b) to cover salaries, expenses, and other administrative costs incurred by the Director to make grants and provide assistance under sections 1366 and 1323.''.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PRODUCTION AND PRICE COMPETITIVENESS

Mr. COCHRAN. Mr. President, I announce that the Subcommittee on Production and Price Competitiveness of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on June 23, 2004 in SD–628 at 10 a.m. The purpose of this hearing will be to examine proposed legislation permitting the Administrator of the Environmental Protection Agency to register Canadian pesticides. Agenda: S. 1406.

SUBCOMMITTEE ON ENERGY

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

The hearing will be held on Tuesday, June 22, at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony regarding High Performance Computing: Regaining U.S. Leadership.

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, Washington, DC 20510–6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, June 15, 2004, at 11 a.m. to conduct a hearing on the nomination of the Hon. Alan Greenspan, of New York, to be chairman of the board of governors of the Federal Reserve System.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.

Mr. INHOFE. Mr. President: I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet

on Tuesday, June 15, 2004, at 9:30 a.m. on Oversight of Pipeline Safety.

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

COMMITTEE ON FINANCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, June 15, 2004, at 10:30 a.m., in 215 Dirksen Senate Office Building, to hear testimony on U.S.—Australia and U.S.—Morocco Free Trade Agreements; and to consider S.J. Res. 39, Approving the Renewal of Import Restrictions Contained in the Burmese Freedom and Democracy Act of 2003.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 15, 2004 at 9:30 a.m. to hold a hearing on Sea Island and Beyond: Status Report on the Global Partnership Against Weapons of Mass Destruction.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 15, 2004 at 2:30 p.m. to hold a hearing on Sudan: Peace But At What Price?

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 15, 2004 at 4:30 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, June 15, 2004, at 10:30 a.m. for a hearing titled ''A Review of Current Efforts to Combat Terrorism Financing.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 15 at 10:45 a.m.

The purpose of this hearing is to receive testimony regarding crude oil supply, gasoline demand and the effects on prices.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, June 15, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1530, the Tribal Parity Act.

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

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, June 15, 2004 at 10 a.m., on ''Biometric Passports'' in the Dirksen Senate Office Building, room 226. The witness list will be provided later today.

Panel I: The Honorable Maria Cantwell, United States Senator [D–WA].

Panel II: The Honorable Asa Hutchinson, Under Secretary for Border and Transportation Security, Department of Homeland Defense, Washington, DC; The Honorable Maura Harty, Assistant Secretary for Consular Affairs, Department of State, Washington, DC.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 15, 2004 at 2:30 p.m., to hold a closed business meeting.

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

SPECIAL COMMITTEE ON AGING

Mr. INHOFE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, June 15, 2004 from 10:15 a.m.–12:30 p.m., in Dirksen 628 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Substance Abuse and Mental Health Services be authorized to meet for a hearing on Providing Substance Abuse Prevention and Treatment Services to Adolescents during the session of the Senate on Tuesday, June 15, 2004, at 10 a.m.

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

PRIVILEGE OF THE FLOOR

Mr. TALENT. Mr. President, I ask unanimous consent that Lore Aquayo of my office be allowed the privilege of the floor.

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

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FLOOD INSURANCE REFORM ACT OF 2004

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 513, S. 2238.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2238) to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

There being no objection, the Senate proceeded to consider the bill which was reported by the Committee on Banking, Housing, and Urban Affairs, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 2238

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 ''Flood Insurance Reform Act of 2004''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Congressional findings.

TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

Sec. 101. Extension of program and consolidation of authorizations.
Sec. 102. Establishment of pilot program for mitigation of severe repetitive loss properties.
Sec. 103. Amendments to existing flood mitigation assistance program.
Sec. 104. FEMA authority to fund mitigation activities for individual repetitive claims properties.
Sec. 105. Amendments to additional coverage for compliance with land use and control measures.
Sec. 106. Actuarial rate properties.
Sec. 107. Geospatial digital flood hazard data.
Sec. 108. Replacement of mobile homes on original sites.
Sec. 109. Reiteration of FEMA responsibility to map mudslides.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Definitions.
Sec. 202. Supplemental forms.
Sec. 203. Acknowledgement form.
Sec. 204. Flood insurance claims handbook.
Sec. 205. Appeal of decisions relating to flood insurance coverage.
Sec. 206. Study and report on use of cost compliance coverage.
Sec. 207. Minimum training and education requirements.
Sec. 208. GAO study and report.
Sec. 209. Prospective payment of flood insurance premiums.
Sec. 210. Report on changes to fee schedule or fee payment arrangements.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the national flood insurance program—

(A) identifies the flood risk;

(B) provides flood risk information to the public;

(C) encourages State and local governments to make appropriate land use adjustments to constrict the development of land

which is exposed to flood damage and minimize damage caused by flood losses; and

(D) makes flood insurance available on a nationwide basis that would otherwise not be available, to accelerate recovery from floods, mitigate future losses, save lives, and reduce the personal and national costs of flood disasters;

(2) the national flood insurance program insures approximately 4,400,000 policyholders;

(3) approximately 48,000 properties currently insured under the program have experienced, within a 10-year period, 2 or more flood losses where each such loss exceeds the amount $1,000;

(4) approximately 10,000 of these repetitive-loss properties have experienced either 2 or 3 losses that cumulatively exceed building value or 4 or more losses, each exceeding $1,000;

(5) repetitive-loss properties constitute a significant drain on the resources of the national flood insurance program, costing about $200,000,000 annually;

(6) repetitive-loss properties comprise approximately 1 percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses;

(7) the vast majority of repetitive-loss properties were built before local community implementation of floodplain management standards under the program and thus are eligible for subsidized flood insurance;

(8) while some property owners take advantage of the program allowing subsidized flood insurance without requiring mitigation action, others are trapped in a vicious cycle of suffering flooding, then repairing flood damage, then suffering flooding, without the means to mitigate losses or move out of harm's way;

(9) mitigation of repetitive-loss properties through buyouts, elevations, relocations, or flood-proofing will produce savings for policyholders under the program and for Federal taxpayers through reduced flood insurance losses and reduced Federal disaster assistance;

(10) a strategy of making mitigation offers aimed at high-priority repetitive-loss properties and shifting more of the burden of recovery costs to property owners who choose to remain vulnerable to repetitive flood damage can encourage property owners to take appropriate actions that reduce loss of life and property damage and benefit the financial soundness of the program;

(11) the method for addressing repetitive-loss properties should be flexible enough to take into consideration legitimate circumstances that may prevent an owner from taking a mitigation action; and

(12) focusing the mitigation and buy-out of repetitive loss properties upon communities and property owners that choose to voluntarily participate in a mitigation and buy-out program will maximize the benefits of such a program, while minimizing any adverse impact on communities and property owners.

TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

SEC. 101. EXTENSION OF PROGRAM AND CONSOLIDATION OF AUTHORIZATIONS.

(a) BORROWING AUTHORITY.—The first sentence of section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), is amended by striking ''through December'' and all that follows through '', and'' and inserting ''through the date specified in section 1319, and''.

(b) AUTHORITY FOR CONTRACTS.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026), is amended by striking ''after'' and all that follows and inserting ''after September 30, 2008.''.

(c) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)), is amended by striking ''during the period'' and all that follows through ''in accordance'' and inserting ''during the period ending on the date specified in section 1319, in accordance''.

(d) AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.—Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)), is amended by striking ''through'' and all that follows and inserting ''through the date specified in section 1319, for studies under this title.''.

SEC. 102. ESTABLISHMENT OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

(a) IN GENERAL.—The National Flood Insurance Act of 1968 is amended by inserting after section 1361 (42 U.S.C. 4102) the following:

''SEC. 1361A. PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

''(a) AUTHORITY.—To the extent amounts are made available for use under this section, the Director may, subject to the limitations of this section, provide financial assistance to States and communities for taking actions with respect to severe repetitive loss properties (as such term is defined in subsection (b)) to mitigate flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

''(b) SEVERE REPETITIVE LOSS PROPERTY.—For purposes of this section, the term 'severe repetitive loss property' has the following meaning:

''(1) SINGLE-FAMILY PROPERTIES.—In the case of a property consisting of 1 to 4 residences, such term means a property that—

''(A) is covered under a contract for flood insurance made available under this title; and

''(B) has incurred flood-related damage—

''(i) for which 3 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim exceeding $3,000, and with the cumulative amount of such claims payments exceeding $15,000; *or*

''(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

''(2) MULTIFAMILY PROPERTIES.—In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director shall by regulation provide.

''(c) ELIGIBLE ACTIVITIES.—Amounts provided under this section to a State or community may be used only for the following activities:

''(1) MITIGATION ACTIVITIES.—To carry out mitigation activities that reduce flood damages to severe repetitive loss properties, including elevation, relocation, demolition, and floodproofing of structures, and minor physical localized flood control projects, and the demolition and rebuilding of properties to at least 1 foot above Base Flood Elevation or greater, if required by any local ordinance.

''(2) PURCHASE.—To purchase severe repetitive loss properties, subject to subsection (f).

''(d) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in any 1-year period the Director may not provide assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds for carrying out the eligible activities to be funded with such assistance amounts.

''(2) REDUCED COMMUNITY MATCH.—With respect to any 1-year period in which assistance is made available under this section, the Director may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

''(A) the State has an approved State mitigation plan meeting the requirements for hazard mitigation planning under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) that specifies how the State intends to reduce the number of severe repetitive loss properties; and

''(B) the Director determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.

''(3) NON-FEDERAL FUNDS.—For purposes of this subsection, the term 'non-Federal funds' includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the eligible activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

''(e) STANDARDS FOR MITIGATION OFFERS.—The program under this section for providing assistance for eligible activities for severe repetitive loss properties shall be subject to the following limitations:

''(1) PRIORITY.—In determining the properties for which to provide assistance for eligible activities under subsection (c), the Director shall provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.

''(2) OFFERS.—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties to take eligible activities under subsection (c) as soon as practicable.

''(3) NOTICE.—Upon making an offer to provide assistance with respect to a property for any eligible activity under subsection (c), the State or community shall notify each holder of a recorded interest on the property of such offer and activity.

''(f) PURCHASE OFFERS.—A State or community may take action under subsection (c)(2) to purchase a severe repetitive loss property only if the following requirements are met:

''(1) USE OF PROPERTY.—The State or community enters into an agreement with the Director that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b).

''(2) OFFERS.—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties and of associated land to engage in eligible activities as soon as possible.

''(3) PURCHASE PRICE.—The amount of purchase offer is not less than the greatest of—

''(A) the amount of the original purchase price of the property, when purchased by the holder of the current policy of flood insurance under this title;

''(B) the total amount owed, at the time the offer to purchase is made, under any loan secured by a recorded interest on the property; and

''(C) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property, *or an amount equal to the current fair market value of the property*.

''*(4) COMPARABLE HOUSING PAYMENT.—If a purchase offer made under paragraph (2) is less than the cost of the homeowner-occupant to purchase a comparable replacement dwelling outside the flood hazard area in the same community, the Director shall make available an additional relocation payment to the homeowner-occupant to apply to the difference.*

''(g) INCREASED PREMIUMS IN CASES OF REFUSAL TO MITIGATE.—

''(1) IN GENERAL.—In any case in which the owner of a severe repetitive loss property refuses an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property, the Director shall—

''(A) notify each holder of a recorded interest on the property of such refusal; and

''(B) notwithstanding subsections (a) through (c) of section 1308, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time that the offer was made, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to paragraph (2) and subject to the limitation under paragraph (3).

''(2) INCREASED PREMIUMS UPON SUBSEQUENT FLOOD DAMAGE.—Notwithstanding subsections (a) through (c) of section 1308, if the owner of a severe repetitive loss property does not accept an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property and a claim payment exceeding $1,500 is made under flood insurance coverage under this title for damage to the property caused by a flood event occurring after such offer is made, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time of such flood event, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to this paragraph and subject to the limitation under paragraph (3).

''(3) LIMITATION ON INCREASED PREMIUMS.—In no case may the chargeable premium rate for a severe repetitive loss property be increased pursuant to this subsection to an amount exceeding the applicable estimated risk premium rate for the area (or subdivision thereof) under section 1307(a)(1).

''(4) TREATMENT OF DEDUCTIBLES.—Any increase in chargeable premium rates required under this subsection for a severe repetitive loss property may be carried out, to the extent appropriate, as determined by the Director, by adjusting any deductible charged in connection with flood insurance coverage under this title for the property.

''(5) NOTICE OF CONTINUED OFFER.—Upon each renewal or modification of any flood insurance coverage under this title for a severe repetitive loss property, the Director shall notify the owner that the offer made pursuant to subsection (c) is still open.

''(6) APPEALS.—

''(A) IN GENERAL.—Any owner of a severe repetitive loss property may appeal a determination of the Director to take action under paragraph (1)(B) or (2) with respect to such property, based only upon the following grounds:

''(i) As a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent.

''(ii) Based on independent information, such as contractor estimates or appraisals, the property owner believes that the price offered for purchasing the property is not an accurate estimation of the value of the property, or the amount *of Federal funds* offered for mitigation activities, *when combined with funds from non-Federal sources*, will not cover the actual cost of mitigation.

''(iii) As a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of historic places will be interfered with, impaired, or disrupted.

''(iv) The flooding that resulted in the flood insurance claims described in subsection (b)(2) for the property resulted from significant actions by a third party in violation of Federal, State, or local law, ordinance, or regulation.

''(v) In purchasing the property, the owner relied upon flood insurance rate maps of the Federal Emergency Management Agency that were current at the time and did not indicate that the property was located in an area having special flood hazards.

''(B) PROCEDURE.—An appeal under this paragraph of a determination of the Director shall be made by filing, with the Director, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the Director shall select, from a list of independent third parties compiled by the Director for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such third party shall review the determination of the Director and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the Director shall stay the applicability of the rates established pursuant to paragraph (1)(B) or (2), as applicable.

''(C) EFFECT OF FINAL DETERMINATION.—In an appeal under this paragraph—

''(i) if a final determination is made that the grounds under subparagraph (A) exist, the third party hearing such appeal shall make a determination of how much to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1)(B) or (2) and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount; and

''(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the Director shall promptly increase the chargeable risk premium rate for such property to the amount established pursuant to paragraph (1)(B) or (2), as applicable, and shall collect from the property owner the amount necessary to cover the stay of the applicability of such increased rates during the pendency of the appeal.

''(D) COSTS.—If the third party hearing an appeal under this paragraph is compensated for such service, the costs of such compensation shall be borne—

''(i) by the owner of the property requesting the appeal, if the final determination in the appeal is that the grounds under subparagraph (A) do not exist; and

''(ii) by the National Flood Insurance Fund, if such final determination is that the grounds under subparagraph (A) do exist.

''(E) REPORT.—Not later than 6 months after the date of the enactment of the Flood Insurance Reform Act of 2004, the Director shall submit a report describing the rules, procedures, and administration for appeals under this paragraph to—

''(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(ii) the Committee on Financial Services of the House of Representatives.

''(h) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the Director determines that a fraudulent claim was made under flood insurance coverage under this title for a severe repetitive loss property, the Director may—

''(1) cancel the policy and deny the provision to such policyholder of any new flood insurance coverage under this title for the property; or

''(2) refuse to renew the policy with such policyholder upon expiration and deny the provision of any new flood insurance coverage under this title to such policyholder for the property.

''(i) FUNDING.—

''(1) IN GENERAL.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to provide assistance under this section in each of fiscal years 2004, 2005, 2006, 2007, and 2008, except that the amount so used in each such fiscal year may not exceed $40,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under this subsection, the Director may use up to 5 percent for expenses associated with the administration of section 1361A.

''(j) TERMINATION.—The Director may not provide assistance under this section to any State or community after September 30, 2008.''.

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (7), by striking ''and'' at the end; and

(2) by striking paragraph (8) and inserting the following:

''(8) for financial assistance under section 1361A to States and communities for taking actions under such section with respect to severe repetitive loss properties, but only to the extent provided in section 1361A(i); and''.

SEC. 103. AMENDMENTS TO EXISTING FLOOD MITIGATION ASSISTANCE PROGRAM.

(a) STANDARD FOR APPROVAL OF MITIGATION PLANS.—Section 1366(e)(3) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following new sentence: ''The Director may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund.''.

(b) PRIORITY FOR MITIGATION ASSISTANCE.—Section 1366(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by striking paragraph (4) and inserting the following:

''(4) PRIORITY FOR MITIGATION ASSISTANCE.—In providing grants under this subsection for mitigation activities, the Director shall give first priority for funding to such properties, or to such subsets of such properties as the Director may establish, that the Director determines are in the best interests of the National Flood Insurance Fund and for which matching amounts under subsection (f) are available.''.

(c) COORDINATION WITH STATES AND COMMUNITIES.—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following:

''(m) COORDINATION WITH STATES AND COMMUNITIES.—The Director shall, in consultation and coordination with States and communities take such actions as are appropriate to encourage and improve participation in the national flood insurance program of owners of properties, including owners of properties that are not located in areas having special flood hazards [but are located within the 100-year floodplain] *(the 100-year floodplain), but are located within flood prone areas*.''.

(d) FUNDING.—Section 1367(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d(b)) is amended by striking paragraph (1) and inserting the following:

''(1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding $40,000,000, to remain available until expended;''.

(e) REDUCED COMMUNITY MATCH.—Section 1366(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(g)), is amended—

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) REDUCED COMMUNITY MATCH.—With respect to any 1-year period in which assistance is made available under this section, the Director may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

''(A) the State has an approved State mitigation plan meeting the requirements for hazard mitigation planning under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) that specifies how the State intends to reduce the number of severe repetitive loss properties; and

''(B) the Director determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.''.

(f) NATIONAL FLOOD MITIGATION FUND.—Section 1366(b)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(b)(2)), is amended by striking ''$1,500,000'' and inserting ''7.5 percent of the available funds under this section''.

SEC. 104. FEMA AUTHORITY TO FUND MITIGATION ACTIVITIES FOR INDIVIDUAL REPETITIVE CLAIMS PROPERTIES.

(a) IN GENERAL.—Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by adding at the end the following:

''SEC. 1323. GRANTS FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.

''(a) IN GENERAL.—The Director may provide funding for mitigation actions that reduce flood damages to individual properties for which 1 or more claim payments for losses have been made under flood insurance coverage under this title, but only if the Director determines that—

''(1) such activities are in the best interest of the National Flood Insurance Fund; and

''(2) such activities cannot be funded under the program under section 1366 because—

''(A) the requirements of section 1366(g) are not being met by the State or community in which the property is located; or

''(B) the State or community does not have the capacity to manage such activities.

''(b) PRIORITY FOR WORST-CASE PROPERTIES.—In determining the properties for which funding is to be provided under this section, the Director shall consult with the States in which such properties are located and provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.''.

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended by adding at the end the following:

''(9) for funding, not to exceed $10,000,000 in any fiscal year, for mitigation actions under section 1323, except that, notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.''.

SEC. 105. AMENDMENTS TO ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.

(a) COMPLIANCE WITH LAND USE AND CONTROL MEASURES.—Section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking ''compliance'' and inserting ''implementing measures that are consistent''; and

(B) by inserting ''by the community'' after ''established'';

(2) in paragraph (2), by striking ''have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and'' and inserting ''are substantially damaged structures;''

(3) in paragraph (3), by striking ''compliance with land use and control measures.'' and inserting ''the implementation of such measures; and''; and

(4) by inserting after paragraph (3) and before the last undesignated paragraph the following:

''(4) properties for which an offer of mitigation assistance is made under—

''(A) section 1366 (Flood Mitigation Assistance Program);

''(B) section 1368 (Repetitive Loss Priority Program and Individual Priority Property Program);

''(C) the Hazard Mitigation Grant Program authorized under section 404 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5170c);

''(D) the Predisaster Hazard Mitigation Program under section 203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5133); and

''(E) any programs authorized or for which funds are appropriated to address any unmet needs or for which supplemental funds are made available.''.

(b) DEFINITIONS.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) by striking paragraph (7) and inserting the following:

''(7) the term 'repetitive loss structure' means a structure covered by a contract for flood insurance that—

''(A) has incurred flood-related damage on 2 occasions, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event; and

''(B) at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.'';

(2) in paragraph (13), by striking ''and'' at the end;

(3) in paragraph (14), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'substantially damaged structure' means a structure covered by a contract for flood insurance that has incurred damage for which the cost of repair exceeds an amount specified in any regulation promulgated by the Director, or by a community ordinance, whichever is lower.''.

SEC. 106. ACTUARIAL RATE PROPERTIES.

(a) IN GENERAL.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by striking subsection (c) and inserting the following:

''(c) ACTUARIAL RATE PROPERTIES.—Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

''(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e).

''(2) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.''.

(b) INAPPLICABILITY OF ANNUAL LIMITATIONS ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended by striking ''Notwithstanding'' and inserting ''Except with respect to properties described under paragraph (2) or (3) of subsection (c), and notwithstanding''.

SEC. 107. GEOSPATIAL DIGITAL FLOOD HAZARD DATA.

For the purposes of flood insurance and floodplain management activities conducted pursuant to the National Flood Insurance Program under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), geospatial digital flood hazard data distributed by the Federal Emergency Management Agency, or its designee, or the printed products derived from that data, are interchangeable and legally equivalent for the determination of the location of 1 in 100 year and 1 in 500 year flood planes, provided that all other geospatial data shown on the printed product meets or exceeds any accuracy standard promulgated by the Federal Emergency Management Agency.

SEC. 108. REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.

Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended by adding at the end the following:

''(c) REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.—

''(1) COMMUNITY PARTICIPATION.—The placement of any mobile home on any site shall not affect the eligibility of any community to participate in the flood insurance program under this title and the Flood Disaster Protection Act of 1973 (notwithstanding that such placement may fail to comply with any elevation or flood damage mitigation requirements), if—

''(A) such mobile home was previously located on such site;

''(B) such mobile home was relocated from such site because of flooding that threatened or affected such site; and

''(C) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

''(2) DEFINITION.—For purposes of this subsection, the term 'mobile home' has the

meaning given such term in the law of the State in which the mobile home is located.''.

SEC. 109. REITERATION OF FEMA RESPONSIBILITY TO MAP MUDSLIDES.

As directed in section 1360(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(b)), the Director of the Federal Emergency Management Agency is again directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of such section 1360, in order to make known the degree of hazard within each such zone at the earliest possible date.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. DEFINITIONS.

In this title, the following definitions shall apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Emergency Management Agency.

(2) FLOOD INSURANCE POLICY.—The term ''flood insurance policy'' means a flood insurance policy issued under the National Flood Insurance Act of 1968 (42 U.S.C. et seq.).

(3) PROGRAM.—The term ''Program'' means the National Flood Insurance Program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

SEC. 202. SUPPLEMENTAL FORMS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop supplemental forms to be issued in conjunction with the issuance of a flood insurance policy that set forth, in simple terms—

(1) the exact coverages being purchased by a policyholder;

(2) any exclusions from coverage that apply to the coverages purchased;

(3) an explanation, including illustrations, of how lost items and damages will be valued under the policy at the time of loss;

(4) the number and dollar value of claims filed under a flood insurance policy over the life of the property, and the effect, under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), of the filing of any further claims under a flood insurance policy with respect to that property; and

(5) any other information that the Director determines will be helpful to policyholders in understanding flood insurance coverage.

(b) DISTRIBUTION.—The forms developed under subsection (a) shall be given to—

(1) all holders of a flood insurance policy at the time of purchase and renewal; and

(2) insurance companies and agents that are authorized to sell flood insurance policies.

SEC. 203. ACKNOWLEDGEMENT FORM.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop an acknowledgement form to be signed by the purchaser of a flood insurance policy that contains—

(1) an acknowledgement that the purchaser has received a copy of the standard flood insurance policy, and any forms developed under section 202; and

(2) an acknowledgement that the purchaser has been told that the contents of a property or dwelling are not covered under the terms of the standard flood insurance policy, and that the policyholder has the option to purchase additional coverage for such contents.

(b) DISTRIBUTION.—Copies of an acknowledgement form executed under subsection (a) shall be made available to the purchaser and the Director.

SEC. 204. FLOOD INSURANCE CLAIMS HANDBOOK.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop a flood insurance claims handbook that contains—

(1) a description of the procedures to be followed to file a claim under the Program, including how to pursue a claim to completion;

(2) how to file supplementary claims, proof of loss, and any other information relating to the filing of claims under the Program; and

(3) detailed information regarding the appeals process established under section 205.

(b) DISTRIBUTION.—The handbook developed under subsection (a) shall be made available to—

(1) each insurance company and agent authorized to sell flood insurance policies; and

(2) each purchaser, at the time of purchase and renewal, of a flood insurance policy, and at the time of any flood loss sustained by such purchaser.

SEC. 205. APPEAL OF DECISIONS RELATING TO FLOOD INSURANCE COVERAGE.

Not later than 6 months after the date of enactment of this Act, the Director shall, by regulation, establish an appeals process through which holders of a flood insurance policy may appeal the decisions, with respect to claims, proofs of loss, and loss estimates relating to such flood insurance policy, of—

(1) any insurance agent or adjuster, or insurance company; or

(2) any employee or contractor of the Federal Emergency Management Agency.

SEC. 206. STUDY AND REPORT ON USE OF COST COMPLIANCE COVERAGE.

Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit to Congress a report that sets forth—

(1) the use of cost of compliance coverage under section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) in connection with flood insurance policies;

(2) any barriers to policyholders using the funds provided by cost of compliance coverage under that section 1304(b) under a flood insurance policy, and recommendations to address those barriers; and

(3) the steps that the Federal Emergency Management Agency has taken to ensure that funds paid for cost of compliance coverage under that section 1304(b) are being used to lessen the burdens on all homeowners and the Program.

SEC. 207. MINIMUM TRAINING AND EDUCATION REQUIREMENTS.

The Director of the Federal Emergency Management Agency shall, in cooperation with the insurance industry, *State insurance regulators*, and other interested parties—

(1) establish minimum training and education requirements for all insurance agents who sell flood insurance policies; and

(2) not later than 6 months after the date of enactment of this Act, publish these requirements in the Federal Register, and inform insurance companies and agents of the requirements.

SEC. 208. GAO STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of—

(1) the adequacy of the scope of coverage provided under flood insurance policies in meeting the intended goal of Congress that flood victims be restored to their pre-flood conditions, and any recommendations to ensure that goal is being met;

(2) the adequacy of payments to flood victims under flood insurance policies; and

(3) the practices of the Federal Emergency Management Agency and insurance adjusters in estimating losses incurred during a flood, and how such practices affect the adequacy of payments to flood victims.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report regarding the results of the study under subsection (a).

SEC. 209. PROSPECTIVE PAYMENT OF FLOOD INSURANCE PREMIUMS.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following:

''(f) ADJUSTMENT OF PREMIUM.—Notwithstanding any other provision of law, if the Director determines that the holder of a flood insurance policy issued under this Act is paying a lower premium than is required under this section due to an error in the flood plain determination, the Director may only prospectively charge the higher premium rate.''.

SEC. 210. REPORT ON CHANGES TO FEE SCHEDULE OR FEE PAYMENT ARRANGEMENTS.

Not later than 3 months after the date of enactment of this Act, the Director shall submit a report on any changes or modifications made to the fee schedule or fee payment arrangements between the Federal Emergency Management Agency and insurance adjusters who provide services with respect to flood insurance policies to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

Mr. SHELBY. Mr. President, I would first like to acknowledge the leadership of Senator BUNNING in crafting this legislation. In addition, several members of the Banking Committee, from both sides of the aisle, are cosponsors on S. 2238. The Banking Committee unanimously voted to favorably report S. 2238 on March 30, 2004. This has truly been a bipartisan effort.

This is important legislation that will go a long way in bringing the flood insurance fund toward financial soundness, while protecting existing property owners. The pilot program established in Section 102 will help to address the mitigation of severe repetitive loss properties. These properties, while only a small percentage of insured properties, constitute a large share of claims paid. FEMA estimates that while repetitive loss properties only account for approximately 1 percent of all insured properties, these properties account for over 30 percent of amounts paid in claims. In addition, most of these properties were constructed before the development of flood insurance rate maps, and are paying subsidized rates for flood insurance.

S. 2238 provides an additional $40 million annually for mitigation activities. This additional funding will allow families that have lived through several floods and suffered substantial harm, both financial and emotional, to either flood-proof their home or have their home bought-out.

I also want to commend Senator SARBANES for his efforts. Title II of S. 2238 is largely his creation. I believe Title II will ensure that families displaced by floods receive adequate and timely assistance.

The managers' amendment to S. 2238 represents several technical and conforming changes. First the definition of repetitive loss property is narrowed. This change was made to assure concerned parties that the pilot program would be targeted at those properties that have indeed suffered the greatest

losses. The managers' amendment also clarifies the funding allocation of the additional mitigation dollars that will be provided under the pilot program. A more explicit allocation is needed to insure that those States hit hardest by flooding receive an adequate flow of funding. The managers' amendment also extends the pilot program and the National Flood Insurance Program until September 30, 2009.

Mr. SARBANES. Mr. President, I support the passage of S. 2238, as amended, and want to urge my colleagues to support this critical legislation which ensures the continuation of the National Flood Insurance Program, which covers over 4.4 million properties around the country. Unless we quickly act to reauthorize this program, it will expire at the end of this month. In addition to extending the National Flood Insurance Program for 5 years, this bill establishes a loss mitigation pilot program to help mitigate flood risks for properties that have been flooded numerous times.

This bill has been drafted in a bipartisan manner, and I particularly want to thank Senators BUNNING and SHELBY for working collaboratively with me to craft this legislation and also for accepting my amendment which makes a number of administrative changes to the National Flood Insurance Program designed to strengthen the program and ensure that flood victims can fairly and adequately recover for flood losses. While Federal flood insurance was created almost 40 years ago to ''provide the necessary funds promptly to assure rehabilitation or restoration of damaged property to pre-flood status or to permit comparable investment elsewhere,'' unfortunately, the program is not working as Congress envisioned. Recent flooding in Maryland as a result of Hurricane Isabel in September 2003, showed that under the strain of a major flooding event, the National Flood Insurance Program was unable to withstand the pressure. Unfortunately, many of the 6,000 Marylanders who filed claims after Hurricane Isabel found the process of recovering under their flood insurance policies to be difficult, time-consuming and frustrating. Too many victims were given incomplete or inaccurate information or were coerced into settling claims that came nowhere near close to providing adequate funding for repairs.

My amendment, as contained in this bill, ensures that policyholders are provided with accurate and timely information about their policies as well as what to do in the event of a flood. As a result of this legislation, FEMA will be required to establish a formal appeals process for complaints; disseminate a claims handbook so that families know exactly what to do if they are flooded; provide simple forms and disclosures so that all policyholders know what coverages are available and what coverages they are purchasing; and, establish minimum agent training requirements so that insurance agents, the main points of contact for flood victims, have a better understanding of this program. In addition, this bill asks the General Accounting Office of conduct a thorough review of the flood insurance program, with particular emphasis on limitations in the flood insurance policy and FEMA's interpretations of this policy. We need to have a detailed understanding of what these limitations are and what the consequences are of broadening coverage. As a result of these changes, I am hopeful that flood victims around the country will not face the same obstacles to receiving fair payments as Marylanders faced last year.

In addition to the administrative changes we are making in this bill, I have been working with my colleague, Senator MIKULSKI, and FEMA to ensure that FEMA does all it can to improve its processes and policies so that flood victims can better navigate the flood insurance program and more fairly settle their claims. I believe that FEMA is working to fix those problems that were brought to its attention, and I want to thank Mr. Anthony Lowe, former Federal insurance administrator, and Mr. Trey Reid, acting insurance administrator, who now oversees the program, for working with me and my colleagues to go back and make sure that Hurricane Isabel flood victims are treated fairly. After Hurricane Isabel, I received numerous complaints that flood victims were pressured into accepting settlements far below what they consider fair, in addition to our findings that FEMA distributed inaccurate price guidelines for the costs of repairs. When confronted with these issues, Mr. Lowe, Mr. Reid, and FEMA staff quickly responded. Letters have now been sent to all flood victims who believe they were treated unfairly can have their claims reviewed. While I appreciate these efforts, I understand that there is some concern that these reviews are not being conducted in an independent way, and I have urged FEMA to take all actions to ensure that this process is fair. The process of reviewing these claims is a fair and necessary step in maintaining the integrity of the National Flood Insurance Program, and I will continue working with FEMA to ensure that all victims are able to have their claims reviewed in an unbiased manner.

This is an important piece of legislation. In addition to the changes contained in my amendment, this bill will help to strengthen and stabilize the flood insurance program by providing $40 million a year to states and communities to mitigate flood risks. While the National Flood Insurance Program has primarily been able to cover losses through the premiums it collects, there have been times when it has had to borrow funds from the Treasury, and this is in large part due to a relatively small number of properties. According to FEMA, these repetitive loss properties account for only 1 percent of policies, but over 35 percent of all losses in the flood insurance program. This bill makes funding available so that communities can assist families who are stuck in a cycle of repeated flooding to get out of harm's way, and so that these properties are less of a drain on the National Flood Insurance Program.

Once again, I thank Senators SHELBY and BUNNING for working with me in such a collaborative manner on this bill.

Mr. NELSON of Florida. Mr. President, I commend Senators SHELBY, SARBANES, and BUNNING for their efforts in drafting the S. 2238, the Bunning/Bereuter/Blumenauer Flood Insurance Reform Act. They have worked with Senator GRAHAM and me to make some important changes that will greatly benefit Federal flood insurance policy holders. Since 1968, the National Flood Insurance Program has provided reasonably priced insurance to Americans across the country. In Florida alone, there are approximately 2 million flood insurance policies.

I support this legislation and, as the former elected insurance commissioner of the State of Florida, appreciate its goals and purpose. However, I have a unique situation in Florida dealing with flood insurance and would like to take a few minutes to bring it to my colleagues' attention.

There is a community in Gulf Country in North Florida known as Cape San Blas. The area has some of the most impressive, pristine beaches in the State. You can see the unique physical characteristics of the Cape quite clearly from space—it is a swath of land that juts out into the Gulf of Mexico.

Most of the residents of Cape San Blas have lived there for some time and have seen first hand the incredible damage and awesome forces of nature brought to bear by hurricanes. And ere we are today, 2 weeks into hurricane season and a good number of the residents of the Cape either do not have flood insurance or have to purchase it at a very high price.

Since 1983, most of Cape San Blas has been included in the Coastal Barrier Resources System, which prevents the Cape from receiving many forms of Federal assistance, most notably flood insurance. But the residents made due by other means, relying on the private market or, in some cases, simply not purchasing flood insurance because it was not a requirement at the time.

Back in 1995, after Hurricane Opal tore through parts of the Florida panhandle, the Federal Emergency Management Agency, FEMA, determined its flood maps required revisions. The agency decided it would need to remap the area and began the process. The new maps took effect in November 202 and placed a large portion of the Cape and the surrounding area in a special flood hazard area—an area of land that has a 1 percent chance of being flooded in any given year. A home located

within this area has a 26 percent chance of suffering flood damage during the term of a 30-year mortgage.

The special flood hazard area designation has had a devastating effect on the local economy for several reasons. First, under the Flood Disaster Protection Act of 1973 mandates flood insurance for property in a special flood hazard area that receives a federally backed loan. If a local bank writes a home loan, without Federal backing, while the bank may not require flood insurance, it does face a safety and soundness issue and possible enforcement action with federal banking regulators for offering high-risk loans.

As a result of the new classification, some residents who never had to carry flood insurance before suddenly found it was a requirement. Many long-time homeowners have been forced to scramble to buy private flood insurance, often at very high rates. Some are also prevented from borrowing against their hard-earned equity, because second mortgages also require hard-to-obtain flood insurance. Local banks have had to turn away homeowners because of this.

The new maps and classification have had a devastating effect on homeowners and the local economy already weakened by the closure of a paper mill and saddled with high rates of unemployment. With the stroke of a pen, FEMA radically changed the lives of thousands of residents and property owners in Cape San Blas. On the Cape, prior to FEMA's new maps, about 70 percent of the lands were not in special flood zone areas and financing was easily obtainable. The new maps placed approximately 75 percent of the Cape in a special flood hazard area and financing is near impossible. Even worse, the new flood maps have slowed the new economic engine of the Cape—tourism, construction and development.

This is a clear case of a Government action adversely affecting the lives of citizens. It is simply unfair. There must be a way to make the residents whole again, and I think we have a responsibility to explore every possible avenue to do so. I had considered legislative remedies for the residents of Cape San Blas on the flood insurance bill. Yet I am very aware the flood insurance program is set to expire in 15 days and do not want to block the passage of this legislation, which is so critical to Florida and the Nation. But in the coming weeks, I intend to work with my colleagues and the Banking and Environment and Public Works Committees, with Congressman ALLEN BOYD, who represents Cape San Blas, and the appropriate Federal agencies to find an equitable solution to the problem facing the residents of Cape San Blas.

Ms. LANDRIEU. Mr. President, I am pleased to see that the Senate will reauthorize the National Flood Insurance program today. This is such an important program for the people of Louisiana.

If there is a theme that runs through the social and economic history of my State, it is water. The Mississippi River, with its great southern port of New Orleans, has been a center of commerce and an economic gateway to the east. Smaller rivers, streams, and bayous run throughout our parishes. More than 8,277 square miles of Louisiana are covered by water, nearly 16 percent. The entire southern third of my State could be called a giant wetland, much of it below sea level, including the city of New Orleans.

Floods are a part of life in Louisiana, particularly in the southern part of the State. Louisiana has more than 377,000 insured properties under the program as of 2003. That same year the program paid nearly 6,000 flood loss claims in Louisiana. The National Flood Insurance Program allows Louisianians to stay in their homes and protects them from the devastation nature can wreak.

The flood program gives the housing, insurance, banking, and mortgage lending markets in my State greater stability. It also brings peace of mind to those families who need the program to protect their most important assets: their homes and businesses.

However, when this reauthorization bill was reported out of the Banking Committee, I had deep concerns about a pilot program contained in the bill designed to address severe repetitive loss properties. These are properties that experience a lot of flooding. The Federal Emergency Management Agency estimates that these repetitive loss properties, while only making up about one percent of all the insured properties, cost the program $200 million annually. Some property owners have collected flood claims that are four or five times higher than the actual value of the property. They refuse to take any action to minimize the cost to the program and benefit from subsidized insurance rates.

Under the pilot program, $40 million in funding would be available on an optional basis for States and communities to take steps to mitigate the flood damage potential on these properties. If a property owner receives a mitigation offer and turns it down, their flood insurance premiums would increase 50 percent, and would keep on increasing by 50 percent until it reached the actuarial rate for the property. This provision would help prevent some of the abuse in the program.

Louisiana has the most repetitive loss properties in the county, about one-third of the total number nationwide. I had concerns about how this pilot program would impact low income property owners in my State and so I put a hold on the bill. I felt that even though State and local communities could opt into the program, they would not have as much control over how the program would get funding to property owners that want mitigation. FEMA held all the cards.

Let me give an example of what I mean. Under the original bill, FEMA would award mitigation funds based upon what it felt was in the best interest of the flood insurance program. I believed that this gave FEMA the power to overrule local determinations of what kind of flood mitigation to offer and what properties to mitigate. For example, a local community that wanted to elevate a structure above the base flood elevation could be denied relief because FEMA decided that buyouts were in the best interest of the flood insurance program in order to permanently remove properties out of the flood insurance program altogether.

The impact this could have on property owners could be devastating. I did not want to see low-income people facing a terrible choice: sell your property or see your rates go up. Many of these families have lived on this land for generations. It may flood regularly, but it is also home. I wanted to make sure the pilot program struck a proper balance between the needs of the flood insurance program and the rights of property owners.

The chairman and ranking member of the Banking Committee, Senators SHELBY and SARBANES, and myself worked together to make changes to the bill that I believe have achieved this balance. The changes keep the pilot program in place but add safeguards requiring FEMA to pay greater deference to local decisions about what properties to mitigate and what kinds of mitigation offers are most appropriate. We added demolition and rebuild as an additional eligible mitigation activity under the bill, an option that Louisiana's flood plain managers wanted. We also included a funding formula that insures that Louisiana gets its fair share of funding under the pilot program. Under FEMA's current mitigation program, Louisiana only received about $1 million even though the State had more than $60 million in need.

I thank Chairman SHELBY and the ranking member of the Banking Committee, Senator SARBANES, as well as their staffs for their willingness to work with me on these changes. We have made this important bill a better deal for local communities in my State and across the country.

Mr. WARNER. My understanding is it is cleared on both sides. I ask unanimous consent that the amendment at the desk be agreed to, the committee 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 amendment (No. 3451) was agreed to, as follows:

(Purpose: To make technical and conforming amendments)

On page 2, line 3, strike ''Flood Insurance Reform Act of 2004'' and insert ''Bunning–Bereuter–Blumenaur Flood Insurance Reform Act of 2004''.

On page 7, line 6, insert ''that decide to participate in the pilot program established under this section'' after ''communities''.

On page 7, line 20, strike ''3'' and insert ''4''.

On page 7, line 24, strike ''$3,000'' and insert ''$5,000''.

On page 7, line 26, strike ''$15,000'' and insert ''$20,000''.

On page 8, line 19, strike ''1 foot above''.

On page 8, line 22, strike ''(f)'' and insert ''(g)''.

On page 8, line 25, strike ''1-year period'' and insert ''fiscal year''.

On page 10, between lines 13 and 14, insert the following:

''(e) NOTICE OF MITIGATION PROGRAM.—

''(1) IN GENERAL.—Upon selecting a State or community to receive assistance under subsection (a) to carry out eligible activities, the Director shall notify the owners of a severe repetitive loss property, in plain language, within that State or community—

''(A) that their property meets the definition of a severe repetitive loss property under this section;

''(B) that they may receive an offer of assistance under this section;

''(C) of the types of assistance potentially available under this section;

''(D) of the implications of declining such offer of assistance under this section; and

''(E) that there is a right to appeal under this section.

''(2) IDENTIFICATION OF SEVERE REPETITIVE LOSS PROPERTIES.—The Director shall take such steps as are necessary to identify severe repetitive loss properties, and submit that information to the relevant States and communities.

On page 10, line 14, strike ''(e)'' and insert ''(f)''.

On page 10, line 23, insert '', in a manner consistent with the allocation formula under paragraph (5)'' after ''time''.

On page 11, between lines 3 and 4, insert the following:

''(3) CONSULTATION.—In determining for which eligible activities under subsection (c) to provide assistance with respect to a severe repetitive loss property, the relevant States and communities shall consult, to the extent practicable, with the owner of the property.

''(4) DEFERENCE TO LOCAL MITIGATION DECISIONS.—The Director shall not, by rule, regulation, or order, establish a priority for funding eligible activities under this section that gives preference to one type or category of eligible activity over any other type or category of eligible activity.

''(5) ALLOCATION.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the total amount made available for assistance under this section in any fiscal year, the Director shall allocate assistance to a State, and the communities located within that State, based upon the percentage of the total number of severe repetitive loss properties located within that State.

''(B) REDISTRIBUTION.—Any funds allocated to a State, and the communities within the State, under subparagraph (A) that have not been obligated by the end of each fiscal year shall be redistributed by the Director to other States and communities to carry out eligible activities in accordance with this section.

''(C) EXCEPTION.—Of the total amount made available for assistance under this section in any fiscal year, 10 percent shall be made available to communities that—

''(i) contain one or more severe repetitive loss properties; and

''(ii) are located in States that receive little or no assistance, as determined by the Director, under the allocation formula under subparagraph (A).

On page 11, line 4, strike ''(3)'' and insert ''(6)''.

On page 11, line 9, strike ''(f)'' and insert ''(g)''.

On page 13, line 3, strike ''(g)'' and insert ''(h)''.

On page 16, line 11, strike ''historic places'' and insert ''Historic Places''.

On page 16, after line 25, insert the following:

''(vi) The owner of the property, based on independent information, such as contractor estimates or other appraisals, demonstrates that an alternative eligible activity under subsection (c) is at least as cost effective as the initial offer of assistance.

On page 17, line 22, strike ''that the grounds'' and insert ''in favor of the property owner''.

On page 17, line 24, strike ''make a determination of how much to'' and insert ''require the Director to''.

On page 18, lines 4 through 6, strike ''and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount'' and insert ''to the amount paid prior to the offer to take action under paragraph (1) or (2) of subsection (c)''.

On page 19, line 6, strike ''Flood'' and insert ''Bunning–Bereuter–Blumenaur Flood''.

On page 19, line 16, strike ''(h)'' and insert ''(i)''.

On page 20, between lines 2 and 3, insert the following:

''(j) RULES.—

''(1) IN GENERAL.—The Director shall, by rule—

''(A) subject to subsection (f)(4), develop procedures for the distribution of funds to States and communities to carry out eligible activities under this section; and

''(B) ensure that the procedures developed under paragraph (1)—

''(i) require the Director to notify States and communities of the availability of funding under this section, and that participation in the pilot program under this section is optional;

''(ii) provide that the Director may assist States and communities in identifying severe repetitive loss properties within States or communities;

''(iii) allow each State and community to select properties to be the subject of eligible activities, and the appropriate eligible activity to be performed with respect to each severe repetitive loss property; and

''(iv) require each State or community to submit a list of severe repetitive loss properties to the Director that the State or community would like to be the subject of eligible activities under this section.

''(2) CONSULTATION.—Not later than 90 days after the date of enactment of this Act, the Director shall consult with State and local officials in carrying out paragraph (1)(A), and provide an opportunity for an oral presentation, on the record, of data and arguments from such officials.

On page 20, line 3, strike ''(i)'' and insert ''(k)''.

On page 20, line 7, strike ''2004,''.

On page 20, line 8, strike ''and 2008'' and insert ''2008, and 2009''.

On page 20, line 19, strike ''section 1361A'' and insert ''this section''.

On page 20, line 20, strike ''(j)'' and insert ''(l)''.

On page 20, line 22, strike ''2008'' and insert ''2009''.

On page 22, line 12, strike ''(m)'' and insert ''(l)''.

On page 22, strike line 21 and all that follows through page 23, line 3, and insert the following:

(d) FUNDING.—Section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding $40,000,000, to remain available until expended;'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

''(c) ADMINISTRATIVE EXPENSES.—The Director may use not more than 5 percent of amounts made available under subsection (b) to cover salaries, expenses, and other administrative costs incurred by the Director to make grants and provide assistance under sections 1366 and 1323.''.

The committee amendments were agreed to.

The bill (S. 2238), as amended, was read the third time and passed, as follows:

S. 2238

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 ''Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Congressional findings.

TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

Sec. 101. Extension of program and consolidation of authorizations.
Sec. 102. Establishment of pilot program for mitigation of severe repetitive loss properties.
Sec. 103. Amendments to existing flood mitigation assistance program.
Sec. 104. FEMA authority to fund mitigation activities for individual repetitive claims properties.
Sec. 105. Amendments to additional coverage for compliance with land use and control measures.
Sec. 106. Actuarial rate properties.
Sec. 107. Geospatial digital flood hazard data.
Sec. 108. Replacement of mobile homes on original sites.
Sec. 109. Reiteration of FEMA responsibility to map mudslides.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Definitions.
Sec. 202. Supplemental forms.
Sec. 203. Acknowledgement form.
Sec. 204. Flood insurance claims handbook.
Sec. 205. Appeal of decisions relating to flood insurance coverage.
Sec. 206. Study and report on use of cost compliance coverage.
Sec. 207. Minimum training and education requirements.
Sec. 208. GAO study and report.
Sec. 209. Prospective payment of flood insurance premiums.
Sec. 210. Report on changes to fee schedule or fee payment arrangements.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the national flood insurance program—

(A) identifies the flood risk;

(B) provides flood risk information to the public;

(C) encourages State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses; and

(D) makes flood insurance available on a nationwide basis that would otherwise not be

available, to accelerate recovery from floods, mitigate future losses, save lives, and reduce the personal and national costs of flood disasters;

(2) the national flood insurance program insures approximately 4,400,000 policyholders;

(3) approximately 48,000 properties currently insured under the program have experienced, within a 10-year period, 2 or more flood losses where each such loss exceeds the amount $1,000;

(4) approximately 10,000 of these repetitive-loss properties have experienced either 2 or 3 losses that cumulatively exceed building value or 4 or more losses, each exceeding $1,000;

(5) repetitive-loss properties constitute a significant drain on the resources of the national flood insurance program, costing about $200,000,000 annually;

(6) repetitive-loss properties comprise approximately 1 percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses;

(7) the vast majority of repetitive-loss properties were built before local community implementation of floodplain management standards under the program and thus are eligible for subsidized flood insurance;

(8) while some property owners take advantage of the program allowing subsidized flood insurance without requiring mitigation action, others are trapped in a vicious cycle of suffering flooding, then repairing flood damage, then suffering flooding, without the means to mitigate losses or move out of harm's way;

(9) mitigation of repetitive-loss properties through buyouts, elevations, relocations, or flood-proofing will produce savings for policyholders under the program and for Federal taxpayers through reduced flood insurance losses and reduced Federal disaster assistance;

(10) a strategy of making mitigation offers aimed at high-priority repetitive-loss properties and shifting more of the burden of recovery costs to property owners who choose to remain vulnerable to repetitive flood damage can encourage property owners to take appropriate actions that reduce loss of life and property damage and benefit the financial soundness of the program;

(11) the method for addressing repetitive-loss properties should be flexible enough to take into consideration legitimate circumstances that may prevent an owner from taking a mitigation action; and

(12) focusing the mitigation and buy-out of repetitive loss properties upon communities and property owners that choose to voluntarily participate in a mitigation and buy-out program will maximize the benefits of such a program, while minimizing any adverse impact on communities and property owners.

TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

SEC. 101. EXTENSION OF PROGRAM AND CONSOLIDATION OF AUTHORIZATIONS.

(a) BORROWING AUTHORITY.—The first sentence of section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), is amended by striking ''through December'' and all that follows through '', and'' and inserting ''through the date specified in section 1319, and''.

(b) AUTHORITY FOR CONTRACTS.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026), is amended by striking ''after'' and all that follows and inserting ''after September 30, 2008.''.

(c) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)), is amended by striking ''during the period'' and all that follows through ''in accordance'' and inserting ''during the period ending on the date specified in section 1319, in accordance''.

(d) AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.—Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)), is amended by striking ''through'' and all that follows and inserting ''through the date specified in section 1319, for studies under this title.''.

SEC. 102. ESTABLISHMENT OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

(a) IN GENERAL.—The National Flood Insurance Act of 1968 is amended by inserting after section 1361 (42 U.S.C. 4102) the following:

''SEC. 1361A. PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

''(a) AUTHORITY.—To the extent amounts are made available for use under this section, the Director may, subject to the limitations of this section, provide financial assistance to States and communities that decide to participate in the pilot program established under this section for taking actions with respect to severe repetitive loss properties (as such term is defined in subsection (b)) to mitigate flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

''(b) SEVERE REPETITIVE LOSS PROPERTY.—For purposes of this section, the term 'severe repetitive loss property' has the following meaning:

''(1) SINGLE-FAMILY PROPERTIES.—In the case of a property consisting of 1 to 4 residences, such term means a property that—

''(A) is covered under a contract for flood insurance made available under this title; and

''(B) has incurred flood-related damage—

''(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim exceeding $5,000, and with the cumulative amount of such claims payments exceeding $20,000; or

''(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

''(2) MULTIFAMILY PROPERTIES.—In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director shall by regulation provide.

''(c) ELIGIBLE ACTIVITIES.—Amounts provided under this section to a State or community may be used only for the following activities:

''(1) MITIGATION ACTIVITIES.—To carry out mitigation activities that reduce flood damages to severe repetitive loss properties, including elevation, relocation, demolition, and floodproofing of structures, and minor physical localized flood control projects, and the demolition and rebuilding of properties to at least Base Flood Elevation or greater, if required by any local ordinance.

''(2) PURCHASE.—To purchase severe repetitive loss properties, subject to subsection (g).

''(d) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in any fiscal year the Director may not provide assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds for carrying out the eligible activities to be funded with such assistance amounts.

''(2) REDUCED COMMUNITY MATCH.—With respect to any 1-year period in which assistance is made available under this section, the Director may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

''(A) the State has an approved State mitigation plan meeting the requirements for hazard mitigation planning under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) that specifies how the State intends to reduce the number of severe repetitive loss properties; and

''(B) the Director determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.

''(3) NON-FEDERAL FUNDS.—For purposes of this subsection, the term 'non-Federal funds' includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the eligible activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

''(e) NOTICE OF MITIGATION PROGRAM.—

''(1) IN GENERAL.—Upon selecting a State or community to receive assistance under subsection (a) to carry out eligible activities, the Director shall notify the owners of a severe repetitive loss property, in plain language, within that State or community—

''(A) that their property meets the definition of a severe repetitive loss property under this section;

''(B) that they may receive an offer of assistance under this section;

''(C) of the types of assistance potentially available under this section;

''(D) of the implications of declining such offer of assistance under this section; and

''(E) that there is a right to appeal under this section.

''(2) IDENTIFICATION OF SEVERE REPETITIVE LOSS PROPERTIES.—The Director shall take such steps as are necessary to identify severe repetitive loss properties, and submit that information to the relevant States and communities.

''(f) STANDARDS FOR MITIGATION OFFERS.—The program under this section for providing assistance for eligible activities for severe repetitive loss properties shall be subject to the following limitations:

''(1) PRIORITY.—In determining the properties for which to provide assistance for eligible activities under subsection (c), the Director shall provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time, in a manner consistent with the allocation formula under paragraph (5).

''(2) OFFERS.—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties to take eligible activities under subsection (c) as soon as practicable.

''(3) CONSULTATION.—In determining for which eligible activities under subsection (c) to provide assistance with respect to a severe repetitive loss property, the relevant States and communities shall consult, to the extent practicable, with the owner of the property.

''(4) DEFERENCE TO LOCAL MITIGATION DECISIONS.—The Director shall not, by rule, regulation, or order, establish a priority for funding eligible activities under this section that gives preference to one type or category of eligible activity over any other type or category of eligible activity.

''(5) ALLOCATION.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the total amount made available for assistance under this section in any fiscal year, the Director shall allocate assistance to a State, and the communities located within that State, based upon the percentage of the total number of severe repetitive loss properties located within that State.

''(B) REDISTRIBUTION.—Any funds allocated to a State, and the communities within the State, under subparagraph (A) that have not been obligated by the end of each fiscal year shall be redistributed by the Director to other States and communities to carry out eligible activities in accordance with this section.

''(C) EXCEPTION.—Of the total amount made available for assistance under this section in any fiscal year, 10 percent shall be made available to communities that—

''(i) contain one or more severe repetitive loss properties; and

''(ii) are located in States that receive little or no assistance, as determined by the Director, under the allocation formula under subparagraph (A).

''(6) NOTICE.—Upon making an offer to provide assistance with respect to a property for any eligible activity under subsection (c), the State or community shall notify each holder of a recorded interest on the property of such offer and activity.

''(g) PURCHASE OFFERS.—A State or community may take action under subsection (c)(2) to purchase a severe repetitive loss property only if the following requirements are met:

''(1) USE OF PROPERTY.—The State or community enters into an agreement with the Director that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b).

''(2) OFFERS.—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties and of associated land to engage in eligible activities as soon as possible.

''(3) PURCHASE PRICE.—The amount of purchase offer is not less than the greatest of—

''(A) the amount of the original purchase price of the property, when purchased by the holder of the current policy of flood insurance under this title;

''(B) the total amount owed, at the time the offer to purchase is made, under any loan secured by a recorded interest on the property; and

''(C) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property, or an amount equal to the current fair market value of the property.

''(4) COMPARABLE HOUSING PAYMENT.—If a purchase offer made under paragraph (2) is less than the cost of the homeowner-occupant to purchase a comparable replacement dwelling outside the flood hazard area in the same community, the Director shall make available an additional relocation payment to the homeowner-occupant to apply to the difference.

''(h) INCREASED PREMIUMS IN CASES OF REFUSAL TO MITIGATE.—

''(1) IN GENERAL.—In any case in which the owner of a severe repetitive loss property refuses an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property, the Director shall—

''(A) notify each holder of a recorded interest on the property of such refusal; and

''(B) notwithstanding subsections (a) through (c) of section 1308, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time that the offer was made, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to paragraph (2) and subject to the limitation under paragraph (3).

''(2) INCREASED PREMIUMS UPON SUBSEQUENT FLOOD DAMAGE.—Notwithstanding subsections (a) through (c) of section 1308, if the owner of a severe repetitive loss property does not accept an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property and a claim payment exceeding $1,500 is made under flood insurance coverage under this title for damage to the property caused by a flood event occurring after such offer is made, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time of such flood event, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to this paragraph and subject to the limitation under paragraph (3).

''(3) LIMITATION ON INCREASED PREMIUMS.—In no case may the chargeable premium rate for a severe repetitive loss property be increased pursuant to this subsection to an amount exceeding the applicable estimated risk premium rate for the area (or subdivision thereof) under section 1307(a)(1).

''(4) TREATMENT OF DEDUCTIBLES.—Any increase in chargeable premium rates required under this subsection for a severe repetitive loss property may be carried out, to the extent appropriate, as determined by the Director, by adjusting any deductible charged in connection with flood insurance coverage under this title for the property.

''(5) NOTICE OF CONTINUED OFFER.—Upon each renewal or modification of any flood insurance coverage under this title for a severe repetitive loss property, the Director shall notify the owner that the offer made pursuant to subsection (c) is still open.

''(6) APPEALS.—

''(A) IN GENERAL.—Any owner of a severe repetitive loss property may appeal a determination of the Director to take action under paragraph (1)(B) or (2) with respect to such property, based only upon the following grounds:

''(i) As a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent.

''(ii) Based on independent information, such as contractor estimates or appraisals, the property owner believes that the price offered for purchasing the property is not an accurate estimation of the value of the property, or the amount of Federal funds offered for mitigation activities, when combined with funds from non-Federal sources, will not cover the actual cost of mitigation.

''(iii) As a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places will be interfered with, impaired, or disrupted.

''(iv) The flooding that resulted in the flood insurance claims described in subsection (b)(2) for the property resulted from significant actions by a third party in violation of Federal, State, or local law, ordinance, or regulation.

''(v) In purchasing the property, the owner relied upon flood insurance rate maps of the Federal Emergency Management Agency that were current at the time and did not indicate that the property was located in an area having special flood hazards.

''(vi) The owner of the property, based on independent information, such as contractor estimates or other appraisals, demonstrates that an alternative eligible activity under subsection (c) is at least as cost effective as the initial offer of assistance.

''(B) PROCEDURE.—An appeal under this paragraph of a determination of the Director shall be made by filing, with the Director, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the Director shall select, from a list of independent third parties compiled by the Director for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such third party shall review the determination of the Director and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the Director shall stay the applicability of the rates established pursuant to paragraph (1)(B) or (2), as applicable.

''(C) EFFECT OF FINAL DETERMINATION.—In an appeal under this paragraph—

''(i) if a final determination is made in favor of the property owner under subparagraph (A) exist, the third party hearing such appeal shall require the Director to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1)(B) or (2) to the amount paid prior to the offer to take action under paragraph (1) or (2) of subsection (c); and

''(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the Director shall promptly increase the chargeable risk premium rate for such property to the amount established pursuant to paragraph (1)(B) or (2), as applicable, and shall collect from the property owner the amount necessary to cover the stay of the applicability of such increased rates during the pendency of the appeal.

''(D) COSTS.—If the third party hearing an appeal under this paragraph is compensated for such service, the costs of such compensation shall be borne—

''(i) by the owner of the property requesting the appeal, if the final determination in the appeal is that the grounds under subparagraph (A) do not exist; and

''(ii) by the National Flood Insurance Fund, if such final determination is that the grounds under subparagraph (A) do exist.

''(E) REPORT.—Not later than 6 months after the date of the enactment of the Bunning-Bereuter-Blumenaur Flood Insurance Reform Act of 2004, the Director shall submit a report describing the rules, procedures, and administration for appeals under this paragraph to—

''(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(ii) the Committee on Financial Services of the House of Representatives.

''(i) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the Director determines that a fraudulent claim was made under flood insurance coverage under this title for a severe repetitive loss property, the Director may—

''(1) cancel the policy and deny the provision to such policyholder of any new flood insurance coverage under this title for the property; or

''(2) refuse to renew the policy with such policyholder upon expiration and deny the

provision of any new flood insurance coverage under this title to such policyholder for the property.

''(j) RULES.—

''(1) IN GENERAL.—The Director shall, by rule—

''(A) subject to subsection (f)(4), develop procedures for the distribution of funds to States and communities to carry out eligible activities under this section; and

''(B) ensure that the procedures developed under paragraph (1)—

''(i) require the Director to notify States and communities of the availability of funding under this section, and that participation in the pilot program under this section is optional;

''(ii) provide that the Director may assist States and communities in identifying severe repetitive loss properties within States or communities;

''(iii) allow each State and community to select properties to be the subject of eligible activities, and the appropriate eligible activity to be performed with respect to each severe repetitive loss property; and

''(iv) require each State or community to submit a list of severe repetitive loss properties to the Director that the State or community would like to be the subject of eligible activities under this section.

''(2) CONSULTATION.—Not later than 90 days after the date of enactment of this Act, the Director shall consult with State and local officials in carrying out paragraph (1)(A), and provide an opportunity for an oral presentation, on the record, of data and arguments from such officials.

''(k) FUNDING.—

''(1) IN GENERAL.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to provide assistance under this section in each of fiscal years 2005, 2006, 2007, 2008, and 2009, except that the amount so used in each such fiscal year may not exceed $40,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under this subsection, the Director may use up to 5 percent for expenses associated with the administration of this section.

''(l) TERMINATION.—The Director may not provide assistance under this section to any State or community after September 30, 2009.''.

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (7), by striking ''and'' at the end; and

(2) by striking paragraph (8) and inserting the following:

''(8) for financial assistance under section 1361A to States and communities for taking actions under such section with respect to severe repetitive loss properties, but only to the extent provided in section 1361A(i); and''.

SEC. 103. AMENDMENTS TO EXISTING FLOOD MITIGATION ASSISTANCE PROGRAM.

(a) STANDARD FOR APPROVAL OF MITIGATION PLANS.—Section 1366(e)(3) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following new sentence: ''The Director may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund.''.

(b) PRIORITY FOR MITIGATION ASSISTANCE.—Section 1366(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by striking paragraph (4) and inserting the following:

''(4) PRIORITY FOR MITIGATION ASSISTANCE.—In providing grants under this subsection for mitigation activities, the Director shall give first priority for funding to such properties, or to such subsets of such properties as the Director may establish, that the Director determines are in the best interests of the National Flood Insurance Fund and for which matching amounts under subsection (f) are available.''.

(c) COORDINATION WITH STATES AND COMMUNITIES.—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following:

''(m) COORDINATION WITH STATES AND COMMUNITIES.—The Director shall, in consultation and coordination with States and communities take such actions as are appropriate to encourage and improve participation in the national flood insurance program of owners of properties, including owners of properties that are not located in areas having special flood hazards (the 100-year floodplain), but are located within flood prone areas.''.

(d) FUNDING.—Section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding $40,000,000, to remain available until expended;'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

''(c) ADMINISTRATIVE EXPENSES.—The Director may use not more than 5 percent of amounts made available under subsection (b) to cover salaries, expenses, and other administrative costs incurred by the Director to make grants and provide assistance under sections 1366 and 1323.''.

(e) REDUCED COMMUNITY MATCH.—Section 1366(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(g)), is amended—

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) REDUCED COMMUNITY MATCH.—With respect to any 1-year period in which assistance is made available under this section, the Director may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

''(A) the State has an approved State mitigation plan meeting the requirements for hazard mitigation planning under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) that specifies how the State intends to reduce the number of severe repetitive loss properties; and

''(B) the Director determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.''.

(f) NATIONAL FLOOD MITIGATION FUND.—Section 1366(b)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(b)(2)), is amended by striking ''$1,500,000'' and inserting ''7.5 percent of the available funds under this section''.

SEC. 104. FEMA AUTHORITY TO FUND MITIGATION ACTIVITIES FOR INDIVIDUAL REPETITIVE CLAIMS PROPERTIES.

(a) IN GENERAL.—Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by adding at the end the following:

''SEC. 1323. GRANTS FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.

''(a) IN GENERAL.—The Director may provide funding for mitigation actions that reduce flood damages to individual properties for which 1 or more claim payments for losses have been made under flood insurance coverage under this title, but only if the Director determines that—

''(1) such activities are in the best interest of the National Flood Insurance Fund; and

''(2) such activities cannot be funded under the program under section 1366 because—

''(A) the requirements of section 1366(g) are not being met by the State or community in which the property is located; or

''(B) the State or community does not have the capacity to manage such activities.

''(b) PRIORITY FOR WORST-CASE PROPERTIES.—In determining the properties for which funding is to be provided under this section, the Director shall consult with the States in which such properties are located and provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.''.

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended by adding at the end the following:

''(9) for funding, not to exceed $10,000,000 in any fiscal year, for mitigation actions under section 1323, except that, notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.''.

SEC. 105. AMENDMENTS TO ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.

(a) COMPLIANCE WITH LAND USE AND CONTROL MEASURES.—Section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking ''compliance'' and inserting ''implementing measures that are consistent''; and

(B) by inserting ''by the community'' after ''established'';

(2) in paragraph (2), by striking ''have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and'' and inserting ''are substantially damaged structures;''

(3) in paragraph (3), by striking ''compliance with land use and control measures.'' and inserting ''the implementation of such measures; and''; and

(4) by inserting after paragraph (3) and before the last undesignated paragraph the following:

''(4) properties for which an offer of mitigation assistance is made under—

''(A) section 1366 (Flood Mitigation Assistance Program);

''(B) section 1368 (Repetitive Loss Priority Program and Individual Priority Property Program);

''(C) the Hazard Mitigation Grant Program authorized under section 404 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5170c);

''(D) the Predisaster Hazard Mitigation Program under section 203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5133); and

''(E) any programs authorized or for which funds are appropriated to address any unmet needs or for which supplemental funds are made available.''.

(b) DEFINITIONS.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) by striking paragraph (7) and inserting the following:

''(7) the term 'repetitive loss structure' means a structure covered by a contract for flood insurance that—

''(A) has incurred flood-related damage on 2 occasions, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event; and

''(B) at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.'';

(2) in paragraph (13), by striking ''and'' at the end;

(3) in paragraph (14), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'substantially damaged structure' means a structure covered by a contract for flood insurance that has incurred damage for which the cost of repair exceeds an amount specified in any regulation promulgated by the Director, or by a community ordinance, whichever is lower.''.

SEC. 106. ACTUARIAL RATE PROPERTIES.

(a) IN GENERAL.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by striking subsection (c) and inserting the following:

''(c) ACTUARIAL RATE PROPERTIES.—Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

''(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e).

''(2) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.''.

(b) INAPPLICABILITY OF ANNUAL LIMITATIONS ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended by striking ''Notwithstanding'' and inserting ''Except with respect to properties described under paragraph (2) or (3) of subsection (c), and notwithstanding''.

SEC. 107. GEOSPATIAL DIGITAL FLOOD HAZARD DATA.

For the purposes of flood insurance and floodplain management activities conducted pursuant to the National Flood Insurance Program under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), geospatial digital flood hazard data distributed by the Federal Emergency Management Agency, or its designee, or the printed products derived from that data, are interchangeable and legally equivalent for the determination of the location of 1 in 100 year and 1 in 500 year flood planes, provided that all other geospatial data shown on the printed product meets or exceeds any accuracy standard promulgated by the Federal Emergency Management Agency.

SEC. 108. REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.

Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended by adding at the end the following:

''(c) REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.—

''(1) COMMUNITY PARTICIPATION.—The placement of any mobile home on any site shall not affect the eligibility of any community to participate in the flood insurance program under this title and the Flood Disaster Protection Act of 1973 (notwithstanding that such placement may fail to comply with any elevation or flood damage mitigation requirements), if—

''(A) such mobile home was previously located on such site;

''(B) such mobile home was relocated from such site because of flooding that threatened or affected such site; and

''(C) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

''(2) DEFINITION.—For purposes of this subsection, the term 'mobile home' has the meaning given such term in the law of the State in which the mobile home is located.''.

SEC. 109. REITERATION OF FEMA RESPONSIBILITY TO MAP MUDSLIDES.

As directed in section 1360(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(b)), the Director of the Federal Emergency Management Agency is again directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of such section 1360, in order to make known the degree of hazard within each such zone at the earliest possible date.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. DEFINITIONS.

In this title, the following definitions shall apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Emergency Management Agency.

(2) FLOOD INSURANCE POLICY.—The term ''flood insurance policy'' means a flood insurance policy issued under the National Flood Insurance Act of 1968 (42 U.S.C. et seq.).

(3) PROGRAM.—The term ''Program'' means the National Flood Insurance Program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

SEC. 202. SUPPLEMENTAL FORMS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop supplemental forms to be issued in conjunction with the issuance of a flood insurance policy that set forth, in simple terms—

(1) the exact coverages being purchased by a policyholder;

(2) any exclusions from coverage that apply to the coverages purchased;

(3) an explanation, including illustrations, of how lost items and damages will be valued under the policy at the time of loss;

(4) the number and dollar value of claims filed under a flood insurance policy over the life of the property, and the effect, under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), of the filing of any further claims under a flood insurance policy with respect to that property; and

(5) any other information that the Director determines will be helpful to policyholders in understanding flood insurance coverage.

(b) DISTRIBUTION.—The forms developed under subsection (a) shall be given to—

(1) all holders of a flood insurance policy at the time of purchase and renewal; and

(2) insurance companies and agents that are authorized to sell flood insurance policies.

SEC. 203. ACKNOWLEDGEMENT FORM.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop an acknowledgement form to be signed by the purchaser of a flood insurance policy that contains—

(1) an acknowledgement that the purchaser has received a copy of the standard flood insurance policy, and any forms developed under section 202; and

(2) an acknowledgement that the purchaser has been told that the contents of a property or dwelling are not covered under the terms of the standard flood insurance policy, and that the policyholder has the option to purchase additional coverage for such contents.

(b) DISTRIBUTION.—Copies of an acknowledgement form executed under subsection (a) shall be made available to the purchaser and the Director.

SEC. 204. FLOOD INSURANCE CLAIMS HANDBOOK.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop a flood insurance claims handbook that contains—

(1) a description of the procedures to be followed to file a claim under the Program, including how to pursue a claim to completion;

(2) how to file supplementary claims, proof of loss, and any other information relating to the filing of claims under the Program; and

(3) detailed information regarding the appeals process established under section 205.

(b) DISTRIBUTION.—The handbook developed under subsection (a) shall be made available to—

(1) each insurance company and agent authorized to sell flood insurance policies; and

(2) each purchaser, at the time of purchase and renewal, of a flood insurance policy, and at the time of any flood loss sustained by such purchaser.

SEC. 205. APPEAL OF DECISIONS RELATING TO FLOOD INSURANCE COVERAGE.

Not later than 6 months after the date of enactment of this Act, the Director shall, by regulation, establish an appeals process through which holders of a flood insurance policy may appeal the decisions, with respect to claims, proofs of loss, and loss estimates relating to such flood insurance policy, of—

(1) any insurance agent or adjuster, or insurance company; or

(2) any employee or contractor of the Federal Emergency Management Agency.

SEC. 206. STUDY AND REPORT ON USE OF COST COMPLIANCE COVERAGE.

Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit to Congress a report that sets forth—

(1) the use of cost of compliance coverage under section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) in connection with flood insurance policies;

(2) any barriers to policyholders using the funds provided by cost of compliance coverage under that section 1304(b) under a flood insurance policy, and recommendations to address those barriers; and

(3) the steps that the Federal Emergency Management Agency has taken to ensure that funds paid for cost of compliance coverage under that section 1304(b) are being used to lessen the burdens on all homeowners and the Program.

SEC. 207. MINIMUM TRAINING AND EDUCATION REQUIREMENTS.

The Director of the Federal Emergency Management Agency shall, in cooperation with the insurance industry, State insurance regulators, and other interested parties—

(1) establish minimum training and education requirements for all insurance agents who sell flood insurance policies; and

(2) not later than 6 months after the date of enactment of this Act, publish these requirements in the Federal Register, and inform insurance companies and agents of the requirements.

SEC. 208. GAO STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of—

(1) the adequacy of the scope of coverage provided under flood insurance policies in meeting the intended goal of Congress that flood victims be restored to their pre-flood conditions, and any recommendations to ensure that goal is being met;

(2) the adequacy of payments to flood victims under flood insurance policies; and

(3) the practices of the Federal Emergency Management Agency and insurance adjusters in estimating losses incurred during a flood, and how such practices affect the adequacy of payments to flood victims.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report regarding the results of the study under subsection (a).

SEC. 209. PROSPECTIVE PAYMENT OF FLOOD INSURANCE PREMIUMS.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following:

''(f) ADJUSTMENT OF PREMIUM.—Notwithstanding any other provision of law, if the Director determines that the holder of a flood insurance policy issued under this Act is paying a lower premium than is required under this section due to an error in the flood plain determination, the Director may only prospectively charge the higher premium rate.''.

SEC. 210. REPORT ON CHANGES TO FEE SCHEDULE OR FEE PAYMENT ARRANGEMENTS.

Not later than 3 months after the date of enactment of this Act, the Director shall submit a report on any changes or modifications made to the fee schedule or fee payment arrangements between the Federal Emergency Management Agency and insurance adjusters who provide services with respect to flood insurance policies to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

ORDERS FOR WEDNESDAY, JUNE 16, 2004

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Wednesday, June 16. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business for 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill, as provided under the previous order.

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

PROGRAM

Mr. WARNER. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the Defense authorization bill under the previous order. The Senate will return to the Dodd contracting amendment tomorrow morning for a final 30 minutes of debate. Following that debate at approximately 10:30 a.m., the Senate will vote in relation to the Dodd amendment. Following the disposition of the Dodd amendment, we will continue to push forward with the amending process. There are several pending amendments that will require rollcall votes, and it is my hope that we will be able to lock in time agreements on them tomorrow morning.

Senators should expect rollcall votes throughout the day tomorrow in relation to the bill as the Senate continues to make progress on the Defense authorization bill. In addition, it is my expectation that rollcall votes could occur in relation to judicial nominations as well.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. WARNER. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:05 p.m., adjourned until Wednesday, June 16, 2004, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 2004:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. NORTON A. SCHWARTZ, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. COLBY M. BROADWATER III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOSEPH R. INGE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RUSSEL L. HONORE, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. WILLIAM E. INGRAM JR., 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DOUGLAS A. PRITT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. THOMAS T. GALKOWSKI, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. JAMES E. CARTWRIGHT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES T. CONWAY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN F. SATTLER, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. TIMOTHY J. KEATING, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF NAVAL OPERATIONS, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5035:

To be admiral

VICE ADM. JOHN B. NATHMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOHN G. MORGAN JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. CHARLES L. MUNNS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. RONALD A. ROUTE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) THOMAS L. ANDREWS III, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) LEWIS S. LIBBY III, 0000
REAR ADM. (LH) ELIZABETH M. MORRIS, 0000

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 15, 2004:

THE JUDICIARY

VIRGINIA E. HOPKINS, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA.

RICARDO S. MARTINEZ, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON.

GENE E. K. PRATTER, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO CHARLOTTE BOBICKI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Charlotte Bobicki and thank her for her dedication to Colorado as an Alamosa County Commissioner. Her dedication and tireless efforts have done much to ensure a promising future for her constituents. As Charlotte moves on in her career, let it be known that she leaves behind a terrific legacy of commitment to the people of Alamosa County and the State of Colorado.

An Alamosa native, Charlotte worked for thrity-six years in the Alamosa Public School System as both a teacher and an administrator before being elected a county commissioner in 1996. During her tenure as a commissioner, Charlotte has been very active in health and human welfare issues. She serves on the Colorado State Board of Health, regional Workforce Committee, and Colorado Counties Incorporated. She also is a founding member of Action 22 in southern Colorado and serves as the San Luis Valley representative to the executive board of Action 22. Last year, Charlotte served as Chairman of the Board of Alamosa County Commissioners, working to enhance relations between the county and other local and state agencies.

Mr. Speaker, I am honored to pay tribute to Commissioner Charlotte Bobicki before this body of Congress and this nation, and to congratulate her on an outstanding career of public service. Her selfless dedication to her community and the people of Colorado as an Alamosa County Commissioner is truly remarkable. I wish her all the best in her future endeavors.

WHIRLIE SOCCER DYNASTY CONTINUES

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. COBLE. Mr. Speaker, as the 2003–2004 academic school year comes to an end, I would like to take a moment to congratulate a high school in the Sixth District of North Carolina that won a state girls' soccer championship. The Whirlies had extra incentive in the final game as they faced a Raleigh Broughton team that had defeated the Grimsley girls (by a score of 2–0) in the finals just 1 year ago. This time around the score was again 2–0, but it would be the Whirlies who walked away with the state title. This game capped off a perfect post-season run in which Grimsley held all playoff opponents scoreless; a remarkable feat that was last accomplished by the Whirlies in 2002. Indeed, the Grimsley girls' soccer program is no stranger to championships as this became their sixth title since 1990.

Despite a convincing playoff performance going into the final game, Grimsley Head Coach Herk DeGraw was weary of the Whirlies' sluggish first few minutes against a formidable Broughton adversary. "The slow start scared me because I thought if they sneak one in and we don't get going we're going to have a problem," DeGraw told the Greensboro News & Record. But with 19:53 remaining in the first half, freshman Holly Cresson's goal began to assuage DeGraw's concerns. A left-footed player, Presson used her right foot to shoot the ball past the Broughton goalkeeper putting the Whirlies on top 1–0. "The look on her face was the funniest thing I've ever seen . . . It was total disbelief," DeGraw told a local reporter about Presson's post-goal expressions. After the Whirlies secured the lead there was no looking back as they powered their way to a 2–0 victory.

This was a memorable win for the Whirlies who were led by a number of senior players. Laura Hanson, Erin Graham, Whitney Andringa, Marie Bobalik, Jenny Cauble, Arden Dwyer, Melissa Ellisen, Anna Betton, and Ashley Newsome all finished their careers with a state championship. These girls had a strong supporting cast comprised of Anna Rodenbough, Michele Driver, Carey Goodman, Alex Leeder, Heidi Andringa, Carra Sykes, Lauren Atkinson, Casey Warmath, Holly Presson, Catherine Rierson, Lucy FanCourt, and Camelyn Dillon.

After such a strong season congratulations are in order for the Grimsley coaching staff. Head Coach Herk DeGraw and Assistant Coach Kevin Conaway deserve much credit for leading the Whirlies on their title run. Recognition should also be given to Athletic Director Neal Hatcher, Principal Rob Gasparello, Athletic Trainer Kris Dickens, and team managers Lauren Chambers and Rachel Goans. On behalf of the citizens of the Sixth District of North Carolina, we congratulate the Grimsley Whirlies for winning the 4–A girls' soccer championship.

TRIBUTE TO MR. RAMÓN VÉLEZ JR.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Ramón Vélez, an extraordinary community leader who has played an important role in improving housing opportunities for the people of the Bronx.

Ramón was born in Colon, Panama but raised in Puerto Rico and the Bronx, NY. He earned a Bachelor of Arts in Political Science and Public Administration from InterAmerican University of Puerto Rico in 1978, a Masters in Public Administration from John Jay College of Criminal Justice in 1985 and a Master of Science in Real Estate Development and Finance from New York University in 1992. He is also a graduate of the Minorities Developers Program at Massachusetts Institute of Technology.

Today, Ramón serves as the President of the South Bronx Community Management Company, Inc., a property management company responsible for the management and operations of approximately 2,200 units of housing. Under his leadership, the company has been able to develop over 1,300 units in the South Bronx. Recently, they successfully completed a scattered site project consisting of 18 two and three family homes in the South Bronx for first time home buyers.

Mr. Speaker, I am truly appreciative of the work Ramón Vélez has done for the people of my district. As a result of his strong leadership and vision many people have been able to achieve a higher standard of living in the Bronx. For his outstanding service to the people of my community, I ask my colleagues to join me in honoring this remarkable man.

IN RECOGNITION OF MARY JESSIE GONZALEZ ROQUE

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. GONZALEZ. Mr. Speaker, I rise today in recognition of a very special woman, Mary Jessie Gonzalez Roque, known by her friends as "Susie." Susie is a valued employee of mine who is retiring after thirty-three years of dedicated service to the federal government. I would like to take this opportunity to acknowledge this important milestone in her life, and to also express my appreciation for the impact she has made on the lives of the constituents of the 20th District of Texas.

Susie's parents immigrated to the United States from Mexico before she was born so that they might have a piece of the American dream. They raised Susie, their first born, and her four siblings in San Antonio. Susie exhibited her value of education throughout her elementary, high school, and college careers. She parlayed this love of education and her skill of helping others into a job as a teacher at Burbank High School in San Antonio during the 1970–1971 academic year.

In 1971, Susie obtained a summer job in the District Office of my father, former U.S. Congressman Henry B. Gonzalez. She was hired full-time to handle casework for the 20th District of Texas and her summer job turned into a thirty-three year career.

Susie has expressed pride in working for my father, a notable figure in Texas and U.S. politics. He was celebrated in San Antonio as being a man who gave a voice to those who could not speak for themselves. Susie was vital to my father's efforts in this endeavor because she worked in close contact with people

who could not navigate through the often convoluted systems of federal bureaucracies by themselves.

I was blessed to be elected to represent the 20th District of Texas in 1998. Like my father before me, I recognize the value of providing good constituent services to those whom I represent. Therefore, I hired Susie to continue in her casework position so that she could continue to provide important services for constituents. Her many accomplishments led me to promote her to be my District Office Director.

In the five and one-half years that Susie has worked for me, she has proven herself invaluable to me, my staff, and the constituents of the 20th District of Texas. She assists people with a wide variety of problems that they experience with federal government agencies, and sometime state and local agencies. These problems include, but are certainly not limited to, immigration cases, military matters, housing problems, health and social services inquiries, and federal workers compensation claims.

I am sincerely proud to count myself among those who have had the opportunity to know and work with Susie. Her steadfast dedication to her job has had an impact on many individuals' lives. Also, her knowledge and skills have enabled those of us who have worked with her to do our jobs better. I wish her many blessings and the very best for her retirement. She will be greatly missed.

MOURNING THE PASSING OF PRESIDENT RONALD REAGAN

SPEECH OF

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 2004

Mr. REGULA. Mr. Speaker, President Ronald Reagan was a warm thoughtful leader who governed by the Golden Rule of caring for others. Many speakers have paid eloquent tribute to his role as both a world leader and a best friend of the American people. Because of our shared love of land I developed a personal relationship with President Reagan that I will always cherish.

PAYING TRIBUTE TO KELLY WILSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Kelly Wilson and thank him for his exceptional contributions to his community and the State of Colorado as a Montezuma County Commissioner. A two-term commissioner, he will always be remembered as a dedicated public servant and leader of his community. As Kelly celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment and service to the people of Montezuma County and the State of Colorado.

Kelly comes from a family with a rich history of political activism. His grandfather served as a county treasurer for fourteen years, his uncle as a county assessor, his father as a party chairman, and his sister was State Senator Jim Isgar's campaign manager and a former employee of Senator BEN NIGHTHORSE CAMPBELL. During his time as a commissioner Kelly has been very involved with the Canyon of the Ancients National Monument and helped to develop the comprehensive land code for the county. He also helped make the unpopular yet important decision to move the county fair in order to fight the Mesa Verde fire of 2000. Kelly plans to stay active in his community after his term, as well as working on the sixty-five acre farm he shares with his sister.

Mr. Speaker, I am honored to pay tribute to Commissioner Kelly Wilson before this body of Congress and this nation, and to congratulate him on an outstanding career of public service. His selfless dedication to his community and the people of Colorado as a Montezuma County Commissioner is truly remarkable. I wish him and his wife Diane all the best in their future endeavors. Thanks for your service.

CELEBRATING THE 100TH ANNIVERSARY OF THE RONKONKOMA FIRE DEPARTMENT

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. ISRAEL. Mr. Speaker, I rise to offer my sincere congratulations to the Ronkonkoma Fire Department in celebration of their 100th Anniversary.

In September of 1903, after a tragic fire at a resort complex took the life of one individual and injured fourteen others, twenty-four men from the Ronkonkoma area volunteered to join a fire-fighting group to replace the existing neighbor bucket brigade system. This group quickly developed, and on June 15, 1904, Ronkonkoma Hook and Ladder Company #1 was officially born.

Ronkonkoma Hook and Ladder Company #1's first truck was a horse-drawn vehicle carrying one hundred feet of hose. The alarm system consisted of a locomotive tire, which resembled a huge iron ring, and a hammer, which was chained to the tire so that it could not be carried away. There were no fire wells or hydrants.

While there have been many developments since 1904, including a name change in 1933 to the Ronkonkoma Fire Department, the mission still remains the same. The men and women of the Ronkonkoma Fire Department are proudly serving their community by saving lives and protecting property.

HONORING THE MEMORY OF THE HON. WILLIAM HENRY McDERMOTT

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. BONNER. Mr. Speaker, Mobile County, AL, and indeed the entire First Congressional District, recently lost a dear friend and I rise today to honor him and pay tribute to his memory.

Judge William Henry McDermott was a devoted family man and dedicated public servant throughout his 50-year career in public service.

A former member of both the Alabama State House and Senate, Judge McDermott turned down an appointment to the bench in Mobile County in 1970, feeling called instead to devote his time to a law practice that would enable him to support his large family. Thirty years later, he ran for—and won—election to a six-year term on the circuit court and until his untimely death, served with distinction in this position.

Unfortunately, Judge McDermott was only recently diagnosed with cancer. However, even in the face of such difficult news, his first thoughts were of selecting the best possible replacement to ensure that the judicial system would not be adversely affected and that the wheels of justice would continue to turn.

In addition to his distinguished career in the state legislature and on the circuit court, Judge McDermott also served with pride in the United States military and was, for a time, the city attorney for Chickasaw, AL.

At the time of his passing, I remarked that Judge McDermott had a heart as big as the state of Texas and that his death would create a large void in the fabric of the Mobile community. In the days since his death, those sentiments have in no way lessened.

The Judge and his lovely wife, Katie, were fixtures in the life of our community for many years and together, they worked in numerous ways, both publicly and behind the scenes, to make life much better for the people of south Alabama.

Not surprisingly, the dedication and care Judge McDermott devoted to community service was constantly on display in his service on the bench. In fact, his attention to even the smallest detail in the cases he heard became legendary around the courthouse, and he was always striving to render a fair decision to all concerned.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated public servant and long-time advocate for all of south Alabama. Judge McDermott will be deeply missed by his family—his wife, Catherine O'Brien McDermott; his daughters, Elizabeth O'Neill, Annette Carwie, Jeanne Marie Cruthirds, Michelle Mayberry, Mary Claire Wacker, Catherine Williamson, and Maureen McDermott; his son, William Joseph McDermott; and his two brothers, Charles L. McDermott and Edward B. McDermott—as well as the countless friends he leaves behind.

Our thoughts and prayers are with them all at this difficult time.

STROKE TREATMENT AND ONGOING PREVENTION ACT

SPEECH OF

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 2004

Mr. CASTLE. Mr. Speaker, I rise today in support of H.R. 3658 Stroke Treatment and Ongoing Prevention Act. I urge the Secretary

to also consider that atrial fibrillation is the leading cause of severe stroke, but if properly treated, the risk of stroke can be dramatically reduced. Atrial fibrillation causes only 15 percent of all stroke, however it leads to a much higher rate of debilitating outcomes for patients resulting in their need for long-term care and increasing the burden on our health care system.

Atrial fibrillation is a condition where the atrium of the heart does not pump blood out properly into the ventricle causing the blood to pool in the atrial chamber. The pooling leads to the formation of clots, which can break off and travel into the arteries and to the brain where it may lodge causing a severe stroke.

Atrial fibrillation currently affects over 2.3 million people in the United States. However, the number of those effected will increase significantly as the population ages and improvements in the treatment of other forms of heart disease are made, extending their life expectancy but increasing their chances of developing atrial fibrillation.

The Committee urges the Secretary to recognize that strokes caused by atrial fibrillation are preventable through the use of anticoagulation medications. The use of anticoagulation medications have been shown to reduce the risk of stroke caused by atrial fibrillation by over 68 percent. The American Heart Association, American College of Cardiology, American College of Chest Physicians, American College of Physicians and American Academy of Family Practitioners have all issued guidelines stressing the importance of stroke prevention in atrial fibrillation by the proper use of anticoagulation therapy.

However, a significant number of patients who should be on anticoagulation therapy do not receive the proper medication. Given the severity of stroke in patients with atrial fibrillation and the ability of the proper care to prevent strokes it is important that health care professionals are educated about the current guidelines for treatment and there is an increased public awareness of atrial fibrillation.

PAYING TRIBUTE TO DENNIS BRINKER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Dennis Brinker and thank him for his exceptional contributions to his community and the State of Colorado as a Jackson County Commissioner. A four-term commissioner, Dennis will always be remembered as a dedicated public servant and leader of his community. As Dennis celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment to the people of Jackson County and the State of Colorado.

A lifelong resident of North Park, Dennis has lived and worked on a ranch near Coalmont that was homesteaded by his father in 1914. Graduating from Jackson County High School in 1961, he answered his country's call to duty, serving in the U.S. Army from 1962 to 1965. In 1988, he was elected to the Board of Commissioners of Jackson County where he has dedicated his efforts to serving the people of Jackson County. Some of the committees and boards Dennis serves on include the Western Interstate Region Board of Directors, National Association of County Officials Public Lands Committee. He was chairman of the Colorado Counties Incorporated Public Lands Committee, and is a member of the Western Interstate Region Strategic Plan for National Association of County Officials Steering Committee. He is also a member of the North Park Stockgrowers Association, Colorado Cattlemen Association, and Jackson County Lions Club.

Mr. Speaker, it is clear that County Commissioner Dennis Brinker has ceaselessly dedicated his time and efforts to serving his county and the people of Colorado as a County Commissioner for Jackson County. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service Dennis and I wish you and your wife Mary Lea all the best in your future endeavors.

PATRIOTS' RESILIENCE LEADS TO TITLE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. COBLE. Mr. Speaker, as major league baseball is in full swing, I would like to take a moment to congratulate a high school in the Sixth District of North Carolina that won a state girls' softball championship. It was not an easy road for the Southern Alamance girls' softball team, but in the end, it was certainly a rewarding one. After losing the first game of the championship round in 10 innings, the Patriots found themselves facing a winner take all game at the Walnut Creek Softball Complex. ''I don't expect anything easy with them (his team),'' Head Coach Mike Johnson told the Burlington Times-News. In continuing this trend of close games and tension filled finishes, Southern Alamance defeated Enka High School 8–6 in yet another 10 inning battle. Despite the Patriots' history of drama, this title should come as no surprise after a combined record of 30–2 for the year.

One of the key performers during the two day tournament run was senior pitcher Brooke Isley who handled 39 innings and struck out 59 batters. It was Isley who closed out the final game by retiring three straight hitters. This capped off a come from behind victory that was initially sparked by Amanda Johnson's base hit and ensuing RBI from Marybeth Ingle. ''We couldn't make anything easy,'' Isley explained to a local reporter. Perhaps the biggest scare for the Patriots came in the 9th inning when an Enka base runner was thrown out at the plate keeping Southern Alamance's hopes alive. Finally in the 10th inning, with runners in scoring position, Marybeth Ingle came up with, what would be, the deciding hit to secure the title.

This was a special win for the Patriots who were led by a number of senior players. Carla Roger, Whitney Lambe, Amanda Hodge, Brooke Isley, Marybeth Ingle, Maegan Evans, and Stacey Vaughn all finished there high school careers on top. These girls had the help of a strong supporting cast comprised of Tori Thompson, Kim Pardue, Brittany McPherson, Brittany Thompson, Magan Campbell, Amanda Johnston, Bethany Hawks, Brandi Haithcock, Ariel Bullock, Amanda Cline, Lesli Scott, Daveda Fox, Tiffany Helton, Erika Winebarger, Kristen Burgess, Olivia McPherson, Kristen Roach, April Carver, and Janna Holt.

After such a remarkable season much credit goes to the Southern Alamance coaching staff who guided the Patriots to the championship. Congratulations to Head Coach Mike Johnson and assistant coaches Chris Miller, Cully Lambeth, Mike Thompson and John Miller. Further recognition should be awarded to Principal Kent Byrd and Athletic Director David Vaughn after this memorable season. On behalf of the citizens of the Sixth District of North Carolina, we congratulate the Patriots of Southern Alamance for winning the state 3–A girls' softball championship.

TRIBUTE TO RICHARD CARRIÓN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Mr. Richard Carrión, who served as a National Grand Marshall for the Puerto Rican Day Parade in New York City on June 13, 2004 and has promoted the Puerto Rican Community in all of his life's work.

Richard was born in San Juan, Puerto Rico in November of 1952. He received a Bachelors degree from the Wharton School of Finance and Commerce at the University of Pennsylvania and a Masters degree in Management Information Systems from the Massachusetts Institute of Technology. In 1976 he began working for Banco Popular, the leading banking institution in Puerto Rico. In his early years, he oversaw the installation of the ATM system throughout the extensive branch network in Puerto Rico and the United States. Today, I am proud to say that Richard serves as president and CEO of the company.

Mr. Speaker, empowerment of the Puerto Rican people remains one of Richard's top priorities. He serves as president of the Committee for the Economic Development of Puerto Rico and actively participates on the boards of several other civic organizations committed to solving problems on the island.

In 1990 Richard was named a member of the International Olympic Committee (IOC) and has been named to several of its commissions including chairman of the Finance Commission and member of the TV and Internet Rights and Marketing Commissions. In addition, he has served as a member of the Puerto Rico Olympic Committee, president of the Puerto Rico Olympic Trust and as a member of the 2004 Olympiad, a non-profit organization that sought to garner international support for Puerto Rico's efforts to stage the 2004 Olympic Games.

Mr. Speaker, what impresses me the most about this remarkable man is his willingness to put his knowledge to work for the benefit of Puerto Ricans. For his extraordinary achievements and his outstanding service to the people of Puerto Rico, I ask my colleagues to join me in honoring this outstanding man.

IN RECOGNITION OF RUBY LEHRMANN

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. GONZALEZ. Mr. Speaker, I rise today in recognition of the retirement of Ruby Lehrmann, Chief United States Probation Officer for the Western District of Texas. I would like to take this opportunity to acknowledge Ruby's long and prestigious career, as well as the countless contributions she has made to her community.

Ruby's professional life reflects hard work, determination, and commitment that began during her college years at Sam Houston State University, where she earned both her Bachelor of Arts and Master of Arts in the field of Health Education. During her undergraduate studies, Ruby was a summer intern with the Goree Unit of the Texas Department of Corrections. Through this internship experience, Ruby began to lay the foundation for her impressive career.

After obtaining her Master's degree, Ruby continued a steady climb up the ranks in the Texas Department of Corrections until she became Assistant Warden for the Goree Unit. In September of 1975, this remarkable woman became the first female U.S. Probation Officer for the Western District of Texas. She was then promoted to Deputy Chief United States Probation Officer in 1983 and was named Chief United States Probation Officer for the Western District of Texas in January of 1995.

Throughout her admirable career, Ruby has always maintained her commitment to education. She has served as an adjunct professor for St. Mary's University and Our Lady of the Lake University. In this capacity, Ruby has shared her knowledge and experiences with others in order to help them achieve success as she has. She has also served as a co-chairman and mentor for Burnet Elementary school in the San Antonio Independent School District.

Ruby's dauntless commitment to her community has been very impressive. She has contributed to San Antonio through volunteer service for many organizations, including the San Antonio Conservation Society and the United Way. In addition to these activities, Ruby is also deeply involved in her church, Concordia Lutheran. There, she has served on a number of committees and has been a coach and a Sunday School teacher.

I deeply appreciate Ruby's many contributions to the Texas Department of Corrections, the U.S. District Court for the Western District of Texas, and the city of San Antonio. Her dedication to her career and the humanitarianism she consistently exhibits in her community have made Ruby a role model for all of us. I am proud of Ruby's accomplishments and I wish her continued happiness and success upon her retirement.

60TH ANNIVERSARY OF D-DAY SPEECH BY SPEAKER HASTERT

SPEECH OF

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. REGULA. Mr. Speaker, at the ceremony recognizing the 60th Anniversary of D-Day held at the United States Memorial Cemetery at Omaha Beach, you, Speaker DENNIS HASTERT, delivered a moving tribute to the courage and sacrifice of those who fought and died for freedom. The text of these thoughtful remarks follows:

D-DAY MINUS 1

REMARKS BY SPEAKER J. DENNIS HASTERT FOLLOWING A MASS BY HIS EMINENCE FRANCIS CARDINAL GEORGE OF CHICAGO

[From the Omaha Beach Cemetery, France, June 5, 2004]

Thank you Cardinal George for your inspirational words.

Today we stand in this now peaceful cemetery, on the cliffs overlooking the sea, in this field of white crosses and Stars of David—straight and tall—as if they were young men standing at attention.

Together we have made a pilgrimage to this ''hallowed ground''—as Abraham Lincoln would have phrased it—to bear witness to what took place here and to spend, at least a fleeting moment, with our brothers that lie beneath this ground—men who sacrificed on this foreign shore so that we might live as free men and women.

It is our privilege, and our duty, to reflect upon the courage and the heroism of those who were called upon to defend our freedom. We honor those who lie here, but we also embrace those who survived, and returned home to raise their families and to build our nation as a beacon to freedom loving people around the world.

Not far from here, at Pointe du Hoc, are the cliffs they said no man could scale. But they were scaled by determined men with ladders and ropes and grappling hooks in the midst of a merciless hale of bullets and shrapnel.

Twenty years ago, on the 40th Anniversary of D-Day, President Reagan looked out at those cliffs and asked, ''who were these men?''

They were ordinary men doing extraordinary things. Men who sought no territory—who sought no plunder—and who sought no glory. They simply came, and many died, so we could live in freedom.

''Where do we find such men?'' asked President Reagan. He knew the answer. Over there—across the sea—In America.

Sixty years ago today, D-Day minus One, what were those young men thinking as they waited to embark on one of the great crusades of the millennium?

In those tension filled hours some found comfort in quiet prayer. Others may have wondered why they were here.

What threat forced these farmers, accountants, factory workers, college students, athletes and assorted other laborers and professionals, to leave their families, their careers and their American way of life?

They knew the answer. Hitler's Germany was that threat. Hitler's hatred of freedom, his assault on common decency, his brutal murder of millions of his own citizens, and his determination to impose his sick vision of the future on the free world.

To end Hitler's regime and restore common decency in the world: that is why they were there.

Operation Overlord, as with the entire war effort, caused great hardship. But out of such hardship was drawn great courage, and from great courage were forged great leaders. Some of that ''greatest generation'' returned home and entered politics and went on to serve our Nation in the Congress of the United States.

Sam Gibbons parachuted behind the lines here in Normandy, preparing the way for the invasion that would follow. He would later become a leader on the Ways and Means Committee.

Bob Michel, our beloved leader from Illinois, went ashore here in Normandy and fought the Nazis all the way to Bastogne, where he was wounded at the Battle of the Bulge.

The list of members who served our nation in the Second World War, and still serve in the House of Representatives, is growing ever shorter with the passage of time.

But those proud members—Henry Hyde of Illinois, Cass Ballenger of North Carolina, John Dingell of Michigan, Amo Houghton of New York, Ralph Hall of Texas, and Ralph Regula of Ohio, still bring great honor to the United States House of Representatives.

These Members of Congress and the men of the 1st Division, some of whom are here today, and their millions of comrades-in-arms, understood that the world-wide threat of fascism, if left unchecked, would destroy the free world. They faced that threat and they beat it.

I want to tell you that the ''Greatest Generation'' still lives today and like the boys of the 1940s, it has a very young face. They are the grandsons and the granddaughters of those who hit this beach in France or raised that flag on Iwo Jimi or pushed the communists back in Korea or in Vietnam.

How do I know that these young warriors of the 21st century are also part of ''The Greatest Generation?'' Because I have met some of them. I have visited them in hospital wards at Walter Reed and in Landstuhl in Germany.

When you visit these young men and women—some of whom have been severely wounded, and you ask them what they want, you always get the same answer, ''I just want to go back and join my unit, sir, to be with my comrades and do my job.''

It happens over and over again, the same response given with pride and determination. I ask myself, often with tears in my eyes as I walk away, ''Where do we find such men and women?'' And I know the answer. All around me. Everywhere I look. In America.

Today we face the threat of world-wide terrorism. Like the Nazis of the 1930's, the terrorists of the 1990's were a threat too often ignored.

But like Pearl Harbor, September 11th, 2001, shocked us out of our complacency. As Americans, we love peace, but we love freedom more. So we are facing the threat. And we will beat it.

In war, we often sacrifice some of the best and the brightest to further the cause of freedom. But we also forge the leaders for the next generation.

We cannot know who will be the Bob Michel, or Bob Dole, or Sam Gibbons of this new generation. But they are out there. Perhaps serving today in a remote mountain camp in Afghanistan, or in a village in Iraq, or on a ship at sea.

Their mission is not very different from that of 1944—to preserve the freedoms that we cherish and to restore freedom to oppressed people. They are fighting to make our homeland safe. They are sacrificing for others.

Who are these ordinary men and women doing extraordinary things you ask? I cannot tell you their names. But this I know: They are Americans.

May God continue to Bless the United States of America.

FREEDOM IS NOT FOR FREE

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. ISRAEL. Mr. Speaker, I rise today to share with my colleagues the following prayer written by Rabbi Reuven Mann from Congregation Rinat Yisrael in Plainview, New York.

Almighty G-d, we have gathered here today at a crucial moment in our history to honor the memory of all those who fought and made the ultimate sacrifice in defense of our Nation and its ideals of freedom, compassion and the highest cultivation of the human spirit. We came not only to honor but also to affirm the lesson of their sacrifice: Freedom is not an entitlement; it does not come for free, it is something which has to be fought for. With humbleness and gratitude let us acknowledge a simple truth: We owe these heroes everything. Without them, we would have lost our freedom long ago.

Yet, many people do not feel this way and take what we have here for granted believing that the American way of life is somehow ''coming'' to them. 9/11 was a wake up call—which happened, to a large extent because nobody believed it could happen. Let us admit it: We were afflicted with the cancer of complacency and blinded by the illusion of invincibility. Suddenly our country was under attack by a merciless, barbaric enemy who wanted us destroyed. 9/11 was a wake up call, but all too many decided to push the snooze button and go back to sleep.

The enemy does not sleep. He continues to remind us of his barbarism and cruelty by beheading innocent Americans and proudly recording his sadism on camera. 9/11 was a wake up call and the message is: If we do not appreciate our freedom and are not willing to fight for it, there is no guarantee that we will always have it. Therefore, I call on all of you to renew your appreciation for our country and its values for we are at war and every war requires the full support of the home front.

We have gathered here today to honor the heroes past and present whose valiant dedication makes our freedom possible. I would be remiss if I did not include among them the civilian heroes of 9/11, the firefighters, police and first responders, who charged into the line of fire to save thousands on that dark day. They wrote a new chapter in the history of bravery and self-sacrifice, and they will never be forgotten.

Almighty G-d, Creator of the Universe, may their selfless service inspire us to appreciate all the blessings that You have bestowed on this Nation. Let their memory be for a blessing—motivating us to become better people: more productive, compassionate, and respectful of the dignity of all men and women who were created in Your Image. And may Your Guidance and Protection be with our men and women who are right now in harms way, to give them the strength, courage and dedication to complete the mission in which they have performed so magnificently. May they speedily return in good health to their country, their homes and loved ones. And let us say: Amen.

MOURNING THE PASSING OF PRESIDENT RONALD REAGAN

SPEECH OF

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 2004

Mr. BONNER. Mr. Speaker, I rise today to honor the memory of a great leader, a great man, and a great American. When President Ronald Wilson Reagan passed away on June 5, 2004, his death brought more than an end to his valiant ten-year struggle against Alzheimer's disease. It brought an end to one of the brightest and most optimistic periods in American history.

While President Reagan had been out of the public eye and under the loving care of his beloved wife, Nancy, for over a decade, he was never far from our minds or our hearts. During these past ten years, while he was traveling down the road into the sunset of his life, we have all had the opportunity to consider his true greatness and his many achievements. We have all come to understand that he was more than just our president and the most powerful man in the world; he was, instead, the personification of—and the symbol for—the boundless potential possible in this country.

From Dixon, Illinois, to Detroit, Michigan, from Washington, D.C., to Los Angeles, California, and at all points in between, men and women everywhere recognize President Reagan for what he truly was: a gifted leader and a compassionate American with a vision for our future and an unwavering belief in the spirit and goodness of mankind.

To say that Ronald Reagan was an example of the American dream would be an understatement. Ronald Reagan was the American dream, the product of a poor middle class family who, as the result of his own intelligence, determination and strong personality, was able to attend college, enjoy a successful career in broadcasting and motion pictures, and eventually rise to the position of governor of California.

For most, that in and of itself would be a remarkable career. But President Reagan did not stop there. Rather, he continued to focus on what he saw as a need for a strong leader in the White House, someone who could work with a divided Congress and an American public still reeling from the political and economic crises of the 1970s to restore this Nation to its position as the ''shining city on the hill.''

During his eight years in office, he did just that. The ''Reagan Revolution,'' as it came to be known, provided the impetus for significant changes here at home and around the world. The economy in this country which had been in steep decline for a number of years righted itself and enjoyed a strong period of growth for the next nine years. The Cold War was brought to an end, communism in many countries ultimately collapsed, and a whole new generation of men, women, and children around the world were able to enjoy a new, life free from the fear of oppression.

Perhaps his greatest accomplishment, however, was in giving Americans a new sense of hope and pride. President Reagan restored a strong sense of optimism and hopefulness to this country, and made everyone feel proud that they could once again say with assurance and determination, ''I am an American.''

Mr. Speaker, just as our nation paused last week to remember and reflect on this good man and great leader, let us, as a nation, remember President Ronald Reagan in the same way that he is remembered by his family: a man full of love, laughter, and life, someone full of boundless optimism and faith, and someone who always believed that America's best days are indeed ahead.

Our country—indeed, our world—has been blessed that we were able to share in a small way in the tremendous life he led. May we never forget the lessons he taught us or the leadership he displayed, and may we continue to keep Mrs. Reagan and the entire Reagan family foremost in our thoughts and prayers.

MOURNING THE PASSING OF PRESIDENT RONALD REAGAN

SPEECH OF

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 2004

Mr. CASTLE. Mr. Speaker, I rise today to pay tribute to President Ronald Reagan. We all join together this week to mourn his passage, but more importantly to celebrate his life. President Reagan meant many things to many people in the United States and throughout the world. Put simply, the world is a better place because Ronald Reagan lived. From his days as an actor and motivational speaker to his time as Governor and President to his final days on his California ranch, Ronald Reagan was a true gentleman who impacted the lives of those around him.

Ronald Reagan was sworn in as the 40th President of the United States the day American hostages were released from Iran—a poignant beginning to the challenges, which would lie ahead. As President, he survived an attack on his life and a battle with colon cancer; he fought communism; he guided the American people through rough economic times and uncertain international struggles; he made history in nominating the first woman to serve on the U.S. Supreme Court; and lead Americans through the tragedy of the Space Shuttle Challenger.

But to limit our descriptions of President Reagan to the milestones in his Presidency would be incomplete. His most impressive qualities are the intangibles that are felt but hard to describe.

So many Americans connected with President Reagan on a personal level. His ability to communicate with was unparalleled. ''Larger than life'' was never a phrase used to describe Ronald Reagan—not because he couldn't have been, but because he didn't want to be. He truly operated as a man of the people.

My first term as Governor of Delaware overlapped with his second term as President of the United States. I had the honor and privilege of working with President Reagan on what I see as one of his greatest landmark accomplishments—welfare reform. The empathy he felt for the American people and the challenges they faced in trying to make ends meet were represented in this landmark legislation. He epitomized a leader who didn't give handouts—but a hand up.

The optimism he felt for every American, our nation and the world was evident to all. His ''glass half full'' mentality guided us through times of peace and times of uncertainty; through the end of the Cold War and rough economic times. No matter what our nation faced, President Reagan's sense of patriotism, togetherness and hope for the future—was infectious.

His love of country made us believe that America was blessed to do great things for so many people. Sadly, this was probably best communicated in what has come to be known as his Letter to the American people when he told the world he was diagnosed with Alzheimer's Disease, when he wrote:

''I now begin the journey that will lead me into the sunset of my life. I will know that for America there will always be a bright dawn ahead.''

Everything he did, he did with grace. He will be remembered—even by those who may have disagreed with him—with respect for his willingness to work together and negotiate, with humor. He and Democratic Speaker Tip O'Neill used to joke that we are ''all friends after 6:00 p.m.'' meaning that at the end of the day, politics was put aside and friendships could grow.

I like to think of President Reagan as a flexible conservative, one who was willing to listen to all sides of an argument, even if he didn't agree, for the chance that he might learn something new or understand a different angle. He didn't pretend to be an expert on all issues, and that is why so many politicians and the American people respected him. He wanted to turn the issue on all sides to see if there were any new approaches that could be taken. Yet at the same time, he was deeply rooted in his beliefs of smaller government, lower taxes and personal responsibility—which continue to guide the Republican Party today.

President Reagan is considered the modern day father of the Republican Party and his long legacy and sunny optimistic spirit will live on in all Americans. And as we all gather today to celebrate the man who meant so much to our country, I would like to invoke the words he used in bidding good-bye to the passengers on the Space Shuttle *Challenger*—''We will never forget them, not the last time we saw them—this morning, as they prepared for their journey, and waved goodbye, and 'slipped the surly bonds of earth' to 'touch the face of God'.''

The Gipper, the Great Communicator, the Flexible Conservative and the Great Conciliator has gone home. But his legacy will never be forgotten.

PAYING TRIBUTE TO FRED A. LUNDIN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, today I rise with a heavy heart to pay tribute to the life and memory of Fred ''Fritz'' Lundin of Glenwood Springs, Colorado. I personally knew Fritz well, and he was a man of the highest integrity and ethics and a natural leader in the community. As his family mourns his passing, I believe it appropriate to recognize the life of this exceptional man.

Born and raised in Brady, Nebraska, Fritz first moved to Colorado when he attended the University of Denver to study accounting on an ROTC scholarship. As a fighter pilot, Fritz honorably served our country in both Korea and Vietnam. For his service in Vietnam, he was awarded the Distinguished Flying Cross. Following his military service he received his MBA from the University of Colorado.

In 1950, Fritz married Bette Coad with whom he had four children. Fritz retired from the Air Force in 1973 and moved to Glenwood Springs. During the years Fritz spent in Glenwood Springs, he became active in the community as a supporter of high school athletics. An avid sports enthusiast, he enjoyed watching his children and grandchildren participate in athletics, and he enjoyed outdoor activities with his family. In 1980, Fritz remarried Cindy Dollins with whom he shared a successful accounting practice and with whom he had a son.

Mr. Speaker, it is my honor to recognize Fred ''Fritz'' Lundin and pay tribute to his life as a valuable citizen of Glenwood Springs. Fritz held both himself and others to the highest standards. His competitiveness was contagious, making people around him better. I wish to express my deepest sympathies to his family and friends during this difficult time of bereavement.

SUPPORTING RESPONSIBLE FATHERHOOD AND ENCOURAGING GREATER INVOLVEMENT OF FATHERS IN THE LIVES OF THEIR CHILDREN

SPEECH OF

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 2004

Mr. PITTS. Madam Speaker, we often hear negative comments about fathers and fatherhood, about ''deadbeat dads'' and absent fathers.

It's easy to forget that there are millions of American fathers who love their wives and their children.

They get up every morning and go to work to support their families.

They go to baseball games and ballet performances and school plays.

They help their kids with their homework, chaperone proms and mow the lawn.

They treat their wives with respect and model healthy relationships.

They make sacrifices and invest in the next generation.

Current research shows that these daily acts of responsibility and faithfulness have a major impact on child well-being.

Statistics show us that marriage is the foundation of responsible fatherhood, and that fathers who are married to the mothers of their children are more likely to be involved in their children's lives.

But, we don't need statistics to tell us that committed, involved fathers are essential to the preservation of the family.

On Sunday, thousands of families in my district will celebrate Father's Day.

Amid all the distractions of our society, many will stop, for just a minute, to honor ''Dad.''

It seems that politics and social change and the faddish nature of our culture have not been able to erase the enduring value of fatherhood and the imprint that fathers have in my district and across this great nation.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Ms. WOOLSEY. Mr. Speaker, had I been present yesterday during rollcall No. 232, I would have voted ''aye.'' During rollcall No. 233, I would have voted ''aye.'' During rollcall No. 234, I would have voted ''no.'' And, on rollcall No. 235, I would have voted ''aye.''

RECOGNIZING CAROLYN RUBENSTEIN

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. WEXLER. Mr. Speaker, I rise to recognize an extraordinary individual who has made a difference in the lives of so many young children. Carolyn Rubenstein, herself just a teenager, started Carolyn's Compassionate Children (CCC), a non-profit organization that links critically ill children with their healthy peers through a pen pal program. Started 5 years ago when Carolyn was 14 years old, the program has connected over 500 children with pen pals in almost every U.S. state and countries around the world, including Canada and England. This excellent program helps children suffering from life-threatening or chronic illnesses connect with their healthy peers. Most of these children are shut in and do not have the ability to interact with others their age or live normal lives. CCC gives them the opportunity to develop friendships and connect with children or teens their age.

In addition to the pen pal program, CCC has awarded 21 college scholarships to cancer survivors. Because of their illness, many of these children who do not have as impressive a resume as their healthy peers and would, otherwise, not qualify for a scholarship. More recently, CCC has set up a scholarship program in the arts for cancer survivors.

I cannot say enough about Carolyn. At a time when our country is asking our young men and women to make sacrifices, Carolyn is a shining example for others to follow. Her compassion, drive and desire to help others has made this world a better place. I commend Carolyn and CCC for making a difference in the lives of so many young people.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent for votes in this chamber on June 14, 2004. I would like the record to show that, had I been present, I would have voted ''no'' on rollcall vote 234 and ''yea'' on rollcall votes 232, 233 and 235.

PAYING TRIBUTE TO KENT LINDSAY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Kent Lindsay and thank him for his dedication to Colorado as a two-term Montezuma County Commissioner. His dedication and tireless efforts have done much to ensure a promising future for his constituents. As Kent celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment to the people of Montezuma County and the State of Colorado.

A lifelong resident of Montezuma County, Kent is the third generation owner of El Grande Cafe in Cortez. He is very active in the community, serving for fifteen years on the local fire department and is currently the Fire Chief. As a county commissioner, Kent was instrumental in rewriting the Land Use Plan and in creating the Stewardship Committee involving rangeland and grazing. He also worked closely in the development of the Dolores River Valley Plan, and plans to stay involved in the issues affecting Montezuma County.

Mr. Speaker, I am honored to pay tribute to Commissioner Kent Lindsay before this body of Congress and this nation, and to congratulate him on an outstanding career of public service. His selfless dedication to his community and the people of Colorado as a Montezuma County Commissioner is truly remarkable. I wish him all the best in his future endeavors. Thanks for your service.

HONORING JUDY BENTLEY

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. CLAY. Mr. Speaker, I rise today to recognize Judy Bentley, the President and CEO of Community Health-in Partnership Services (CHIPS) in St. Louis. Ms. Bentley was recently selected as a 2004 Robert Wood Johnson Community Health Leader. She was one of just ten people nationally to be selected for this prestigious award, which includes a grant of over $105,000 to enhance her work.

A nurse practitioner and native of St. Louis, Ms. Bentley was inspired to enter the healthcare field after her diagnosis of uterine cancer in 1975.

Ms. Bentley founded CHIPS in 1990, and it remains the only free health clinic serving the mostly uninsured residents of north St. Louis. In its first year, CHIPS served about 250 clients in its meager facility in the basement of a local church. In 1991, the clinic moved to a new 5,600-square-foot facility. Currently run by a staff of 10 full and parttime employees, along with a core of 19 volunteer professionals, CHIPS provides health screenings and primary-level health care to about 1,000 clients a month through both its outreach and in facility services.

Ms. Bentley has also implemented a unique outreach program to provide prevention and health education in non-traditional community settings including banks, grocery stores, beauty salons, barbershops, and homeless centers. Ms. Bentley also promotes workforce development by hiring and training lay health educators to go door-to-door, enrolling clients, and has implemented an intergenerational program in which teens in the youth development program work with senior citizens.

Mr. Speaker, I am honored to recognize Ms. Bentley for this national award, and express my gratitude for her determination and leadership. Her work among the medically underserved has undoubtedly inspired many others in St. Louis and elsewhere to take action. It is an honor to recognize her today for her important work and this well deserved award.

IN HONOR OF SHARON KELSO

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. MORAN of Virginia. Mr. Speaker, I am pleased to take this opportunity to commend an amazing woman from my congressional district, Sharon Kelso. Sharon has been one of the most positive forces in Fairfax County throughout the years and I am proud of all that she has accomplished to help those less fortunate throughout the county. She is a friend and someone that I admire greatly. Sharon will be retiring after faithful and selfless service to United Community Ministries and the people of Fairfax County.

The main legacy Sharon will leave behind is her work as Executive Director of United Community Ministries. When she first began working for UCM, the agency had not existed for long, and its focus was smaller than what Sharon thought it could accomplish. With her vision and dedication, UCM has grown into one of the most important organizations in northern Virginia. One of her most lasting contributions was to establish the first walk-in clinic for the uninsured using volunteer doctors, nurses and technicians. Since that time, the citizens of Fairfax County have seen additional clinics open up for those without health insurance.

While her work for UCM would be enough to fill anyone's time, Sharon wanted to give even more assistance to her community. She has served on numerous boards and committees to help better Fairfax County for all who chose to make it their home. As Co-Chair of the Homeless Oversight Committee, Sharon has helped to implement strategies to prevent homelessness throughout the county. Knowing that affordable housing is one of the most important issues in this area, she has worked on the Affordable Dwelling Unit Task Force which ensures that the affordable dwelling ordinances are effective, and through her service on the Fairfax Committee of 100 Board of Directors she has helped evaluate the lack of affordable housing for those who need it.

Sharon Kelso has also taken on an advocacy role and was often lobbying for issues relating to human services needs, childcare, child abuse and neglect, health and mental health care and homelessness. She also worked with her local Chamber of Commerce to lobby the Fairfax Board of Supervisors to maintain affordable housing. It is through her efforts that these issues have been brought to the forefront for the leaders and community activists of Fairfax County.

While Sharon is retiring from UCM and moving out of the area, I am certain she will continue to work on behalf of those who need help the most. Her work has vastly improved the lives of thousands of families throughout the community and Virginia. Sharon's vision and dedication has touched many people and will ensure a bright future for generations to come. I congratulate Sharon on her retirement. More importantly, I say thank you for making such a difference in the Northern Virginia area.

ON THE PASSING OF BUDDY BRACKIN

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. MILLER of Florida. Mr. Speaker, it is with great sadness that I rise today to recognize the passing of Newman C. ''Buddy'' Brackin. Buddy had a tremendous impact in my district over nearly 28 years as Okaloosa County Clerk of the Circuit Court.

The son of a former Florida Senate president, Buddy came into politics with a solid base of knowledge. He had taught middle and high school in Northwest Florida and worked in real estate, but he knew it was time for him to run for the Okaloosa Clerk's office in 1976, and his win in that election reaffirmed his belief. His successive re-election was a clear indicator that Buddy was the right man for the job. Indeed, it was not until his diagnosis of pancreatic cancer that he decided not to seek an eighth term.

Buddy's tenure as County Clerk saw the office of the Clerk nearly triple in size, and with his help the office saw much-needed improvements in the smoothness of its day-to-day operations. It is doubtful that many would have disagreed with his intent six months ago to seek an eighth term, so respected was he on both a professional and personal level by all who knew him.

My prayers go out to Buddy's wife Blanche, his sons Mark and Bryan, and all others who mourn the loss of a great public servant. He loved his family as they loved him, his loss will have a vast impact on so many.

Mr. Speaker, on behalf of the United States Congress, it is with no small amount of sorrow that I tell of the passing of Buddy Brackin from this world, and his family is in my thoughts and prayers.

HONORING FORMER PRESIDENT GEORGE HERBERT WALKER BUSH ON HIS 80TH BIRTHDAY

SPEECH OF

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 2004

Mr. PORTMAN. Mr. Speaker, I rise in support of H. Res. 653, a resolution honoring President George Herbert Walker Bush, a true statesman and American hero, who recently celebrated his 80th birthday.

President Bush has devoted his life to the service of our nation. As a highly decorated Navy pilot in World War II; a distinguished Congressman and Ways and Means Committee Member from Texas's Seventh Congressional District; a successful Ambassador to the United Nations; Liaison to China; Director of the Central Intelligence Agency; Vice President; and President of the United States—George Bush has ably served our country for over 50 years.

During that time, President Bush has exemplified the very highest values and principles of public service—honesty, integrity, responsibility, loyalty and patriotism. This is the Bush legacy and the example he set for all of us.

As a staff member who served in the Bush White House, I was privileged to learn this firsthand. His leadership as President was critical to resolving the challenges of that time: the fall of the Berlin Wall and the reunification of Germany; the end of Communism and beginning of democracy in Eastern Europe; a free trade policy and the lowering of trade restrictions and tariffs during the GATT talks; and of course, the success of Desert Storm. At home, he supported and signed the historic Americans with Disabilities Act; and the important amendments to the Clean Air Act, arguably the most important environmental legislation ever passed.

In his retirement, President Bush is still making history. I had the privilege of being present in College Station last weekend for his most recent birthday parachute jumps, for which he earned parachutist's wings from the Army's Golden Knights. The wings included a small bronze star, echoing his unplanned jump during World War II, when his torpedo bomber was hit by anti-aircraft fire south of Japan.

Mr. Speaker, all of us congratulate President Bush on his birthday, and express our gratitude for his remarkable and unselfish public service.

PAYING TRIBUTE TO STEVE WARDELL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Steve Wardell and thank him for his dedication to Colorado as a Mineral County Commissioner. His tireless efforts have done much to ensure a promising future for his constituents. As Steve celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment to the people of Mineral County and the State of Colorado.

During his tenure as commissioner, Steve worked on a number of issues for his Mineral County community. He was instrumental in putting together maps and a tabulation for the public rights of way in Mineral County. He also was involved in the approval of the preliminary plat of the Village at Wolf Creek, began the process for building a new Health Clinic in Mineral County, and pursued donations and grants to help repave the local airport runway.

As a dedicated member of the community, Steve volunteers his time to numerous civic organizations. He does the maintenance work on the county's ambulances, saving the Ambulance Board money to use on needed upgrades and equipment. He also is a volunteer fireman, and is always willing to help wherever he is needed.

Mr. Speaker, it is clear that County Commissioner Steve Wardell has ceaselessly dedicated his time and efforts to serving his county and the people of Colorado as a County Commissioner for Mineral County. I am honored to bring his hard work and achievements to the attention of this body of Congress and this nation today. Thank you for all your service Steve, and I wish you all the best in your future endeavors.

MOURNING THE PASSING OF PRESIDENT RONALD REAGAN

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 2004

Mr. POMEROY. Mr. Speaker, my thoughts and prayers go out to Mrs. Reagan and her family as our nation mourns the loss of President Reagan.

Our nation has lost a leader. President Reagan inspired Americans to a higher purpose. He believed, and led all Americans to believe, that our country could be the "shining city on the hill." It was his spirit and faith in American values that helped reinforce America's faith in itself.

I was serving in the North Dakota Legislature on the day President Reagan was shot. I remember the somber atmosphere and deep concern from Republicans and Democrats alike as legislators gathered around a television anxiously awaiting word on the President's condition. With characteristic optimism, President Reagan went on to recover from his wounds and continue to lead the nation as our President.

President Reagan's passing brings us sadness at the loss of an American leader, but reminds all of us of his lasting legacy of service to our nation.

RECOGNIZING CAROL CAROTHERS (EXECUTIVE DIRECTOR, NAMI MAINE)

HON. THOMAS H. ALLEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. ALLEN. Mr. Speaker, I rise today to recognize Carol Carothers, who was recently named a 2004 national Community Health Leader by the Robert Wood Johnson Foundation for her work to prevent inappropriate incarceration and improve the treatment of people with mental illnesses. Ms. Carothers was one of only ten people nationally to be selected for this prestigious award, which includes a grant of more than $105,000 to support her work.

Ms. Carothers is executive director of the National Alliance for the Mentally Ill (NAMI) Maine. During her tenure, Ms. Carothers has dedicated herself to assisting families of people who have mental illness. Under her leadership, NAMI Maine has become a respected source for information on effective practices in treatment and diversion of the incarcerated mentally ill. Ms. Carothers has successfully assembled a broad-based coalition of families, inmates, providers, corrections and law enforcement professionals, State officials, and advocates to identify problems and solutions for inmates with mental illness. The program Ms. Carothers pioneered in Maine has become a model for other States seeking to train prison personnel to recognize the signs of mental illness and provide appropriate responses.

The suicide of an 18 year-old man in a maximum security prison 3 years ago inspired Ms. Carothers' interest in the plight of the incarcerated mentally ill. She now assists the State government in assessing the quality of prison programs, and provides education and training to law enforcement and corrections officers to promote more humane treatment.

NAMI Maine's Assistant Director put it best by saying, "[Carol is] propelled by the personal situations that illustrate the inhumane and immoral quality of inadequate treatment in the criminal justice system."

Mr. Speaker, I couldn't agree more. I'm honored to recognize Ms. Carothers for this national award, and express my gratitude for her determination and leadership. She has inspired many others in Maine and elsewhere to take action. This well-deserved award is confirmation of the importance of her work.

PERSONAL EXPLANATION

HON. DENISE L. MAJETTE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Ms. MAJETTE. Mr. Speaker, on June 8th and 9th, 2004 I was not able to be here for three roll call votes.

On rollcall number 229 regarding H. Res. 663, expressing the profound regret and sorrow of the House of Representatives on the death of Ronald Wilson Reagan, former President of the United States of America, I would have voted "yea".

On rollcall number 230, approving the Journal, I would have voted "yea".

On rollcall number 231, regarding H. Res., honoring the late Honorable Ronald Wilson Reagan, I would have voted "yea".

THE RETIREMENT OF NREL DIRECTOR VICE ADMIRAL RICHARD TRULY

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. UDALL of Colorado. Mr. Speaker, last Tuesday, Vice Admiral Richard Truly, director of DOE's National Renewable Energy Laboratory (NREL), announced that he plans to retire in early November after more than seven years as NREL's director.

Although I am not greatly surprised by this announcement, I am saddened by it. I know that a national search will soon be launched to select the Admiral's successor, and I expect that his successor will represent NREL well in future years. But Admiral Truly has so vividly marked the last five years I've spent working on renewable energy policy in the House of Representatives. It is hard to imagine NREL without him.

In a letter to staff, Admiral Truly wrote, ''I honestly believe that it is at the intersection of our energy use, our environment, our economic well being and our national security that society finds the greatest engineering and scientific challenges on Earth today. Each of you at NREL are at the heart of this challenge and opportunity. What you do really, really matters to our nation and our world. I feel a deep privilege to have been a small part of your successes over these years.''

This last statement exemplifies the Admiral's approach to leadership. He was always quick to credit NREL staff for their achievements and believed in the importance of teamwork. He was admired by his colleagues at NREL and, I think, inspired them to work harder and aim higher.

For the Admiral, no challenge was too great. He wasn't content to rise to the rank of vice admiral in the Navy. He was also a naval aviator, test pilot and astronaut, logging more than 7,500 hours of flight. His astronaut career included work in the Air Force's Manned Orbiting Laboratory program, and NASA's Apollo, Skylab, Apollo-Soyuz and Space Shuttle programs. He piloted the 747/Enterprise approach and landing tests in 1977. He lifted off in November 1981 as pilot aboard Columbia, the first shuttle to be reflown into space, establishing a world circular orbit altitude record. He commanded Challenger in August-September 1983, the first night launch/landing mission of the Space Shuttle program. For all these achievements, President Reagan awarded the Presidential Citizen's Medal to Admiral Truly in 1989. Admiral Truly capped off his space career by serving as NASA's eighth Administrator under President George H.W. Bush from 1989–1992.

During his seven years at NREL, Admiral Truly has raised the visibility of the laboratory to new heights. NREL is considered the premier laboratory for renewable energy research and development and a leading laboratory for energy efficiency R&D. As a world leader in the development of these technologies, NREL is involved in fifty different areas of scientific research, from solar photovoltaics and wind energy to hydrogen fuel cells and distributed energy generation.

As co-chair of the Renewable Energy and Energy Efficiency Caucus, I have worked hard to increase funding for NREL's important research and generally to raise the profile of renewable energy and energy efficiency in Congress. It has been an uphill climb, as these programs have had to compete for funding with others. What has inspired me to keep fighting the fight has been knowing that Admiral Truly and his team are back in Colorado, pushing technological limits, dreaming up new ways for us to transition to a clean energy future. Admiral Truly may not be with NREL in the years to come, but I know he will always be there in spirit, urging us all to continue to aim for the stars.

PAYING TRIBUTE TO BOB GEORGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, I rise with considerable sadness to pay tribute to the life and memory of Bob George of Aspen, Colorado. Bob recently passed away at the age of sixty-one. With the loss of Bob, Aspen loses a friend of the community. As his family mourns his passing, I believe it is appropriate to recognize the life of this exceptional man before this body of Congress and this nation today.

Bob first moved to Aspen in 1964, after attending the University of Colorado at Boulder. Soon after, he married Karin Knudson, with whom he went on to have three children. In 1967, he found work with Mason & Morse, a real estate firm, and with a good college friend, they worked hard and eventually assumed control of the company. The two partners and friends put much time and effort in transforming Mason & Morse Real Estate into the largest firm in the Aspen Valley.

As a spirited business leader, Bob achieved great success. He was the president of two professional organizations, the Aspen Board of Realtors and the Aspen Chamber Resort Association. His dedication to the community included memberships in the Aspen Elks Club, Mountain Rescue and Rotary Club. He was also president of the Aspen School Board and spent time volunteering for the Sunshine Kids and Ducks Unlimited.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life and memory of Bob George. He was a natural business leader and a valuable member of his community. More importantly, Bob will always be remembered as a consummate family man. I wish to extend my deepest regrets and sympathy to Bob's family and friends during this difficult time of bereavement.

PERSONAL EXPLANATION

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. GRAVES. Mr. Speaker, on Monday, June 14, 2004, I was unavoidably detained and thus missed rollcall votes #232, #233, #234 and #235. Had I been present, I would have voted ''yea'' on #232, approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; ''yea'' on #233, expressing the sense of Congress with respect to the need to provide prostate cancer patients with meaningful access to information on treatment options; ''yea'' on #234, to provide rapid acquisition authority to the Secretary of Defense to respond to combat emergencies; and ''yea'' on #235, honoring former President George Herbert Walker Bush on the occasion of his 80th birthday.

OCC AND THE BANK-REALTOR FIGHT

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. SHERMAN. Mr. Speaker, I would like to submit for the RECORD an article recently published in the American Banker, entitled, ''OCC Caught in the Middle of Bank-Realtor Fight.''

[From the American Banker, June 2, 2004]

OCC CAUGHT IN THE MIDDLE OF BANK-REALTOR FIGHT

(By Todd Davenport)

The possibility that banks will one day sell houses makes the real estate brokers' lobby shudder and has galvanized it to fight against any incursion it perceives.

For the last three years the most obvious threat has been a joint proposal by the Treasury Department and the Federal Reserve Board that would let financial holding companies and financial subsidiaries offer real estate brokerage services.

But in the past year the National Association of Realtors has targeted the Office of the Comptroller of the Currency's recent efforts to stake out its preemption authority. The trade group says the OCC's ability to insulate national banks from state laws that require real estate and mortgage licensing is also a threat.

The OCC has countered that there is little, if any, connection between preemption and real estate brokerage, but right or wrong, the trade group has become an unexpected and powerful opponent to the OCC's preemption regulations at a time when it needs all the friends it can get.

The regulations were finalized in January, but some lawmakers on Capitol Hill have threatened to take action against them.

''The Comptroller's position is that this has nothing to do with real estate brokerage, but I don't think the Comptroller has been successful in deflecting the awareness of people on the Hill that the Realtors are concerned,'' said Gil Schwartz, a lawyer with Schwartz & Ballen LLP in Washington.

The Realtors ''have brought a lot of people focused at the local level,'' Mr. Schwartz said. ''They have brought much more awareness of not just what can happen now but what can happen in the future.''

The group says preemption is relevant, because the OCC could let banks into real estate brokerage independent of the joint Fed-Treasury proposal, which was made under the auspices of the Gramm-Leach-Bliley Act.

''Right now a national bank could apply to the OCC for real estate brokerage to be considered a permissible banking activity,'' said Lynn King, a regulatory representative at the trade group.

Realtors say the OCC could rely on an existing interpretation that authorizes national banks to operate as ''finders.'' That broad power effectively allows a bank to act as the middleman in many financial transactions.

Some banking lawyers say they doubt the OCC will use that interpretation to allow real estate brokerage.

''Finder authority had been on the books for years, and that never was perceived or regarded as giving national banks authority to sell insurance as an agent or broker on an unrestricted basis,'' said Ken Ehrlich, a lawyer with Nutter McLennen & Fish LLP in Boston.

But real estate brokerage may be consistent with the business of banking, he said.

''National banks by virtue of the business they conduct every day are arguably fully equipped to get into the real estate brokerage business and do it well without raising any safety-and-soundness issues, significant consumer protection issues, and without a whole lot, if any state regulation,'' Mr. Ehrlich said.

An OCC spokesman would not discuss its plans, but in the past agency officials have said they are not contemplating the extension of real estate brokerage powers to national banks.

Realtors say they want certainty.

''Everything that they've said in testimony, everything that they've said publicly, we just want them to put in some sort of official format that we can rely on for the future of our industry,'' Ms. King said.

The threat is imminent, because banking companies ''want to put real estate people in the bank or the operating subsidiary,'' she said. ''They want to put them as close as they can to the loan, the mortgage transaction.''

Doing so would be anticompetitive, Ms. King said. OCC preemption—which a Connecticut judge said last week extends to operating subsidiaries—would give the mortgage arms of large banks ''a free pass on all these state laws and registrations and licensing,'' and ''our members aren't going to be able to play in that field.''

Banking lawyers took the opposite view.

''The Realtors' position is anticompetitive,'' said Melanie Fein, a lawyer at Goodwin Procter LLP in Washington. ''Just like the securities industry, the insurance industry, the data processing industry, the courier industry, they all have fought against bank involvement.''

The group is behaving ''like Chicken Little,'' but ''the sky is not going to fall—and if it does fall, it would be to the benefit of consumers,'' she said

Realtors say they would stand down in this battle if the OCC were to write regulations keeping banks out of real estate brokerage. They also said that if the long-pending Fed-Treasury proposal disappeared, the Realtors' opposition to OCC preemption would disappear with it.

(The proposal has been on hold, because the Realtors have successfully lobbied for enactment of spending bills the last two years that have barred the Treasury from using its budget to finalize the proposal.)

''We almost view this thing as the Trojan horse at the gates,'' said Joseph Ventrone, the trade group's managing director of regulatory and industry relations. If the Fed and the Treasury were to drop their December 2000 proposal, ''our vehemence on OCC'' preemption ''would not be as strong, would probably not be at all.''

To some, that's evidence that the Realtors do not have a legitimate beef with the preemption rules.

The group ''developed a strategy where they believe they can use the debate going on today about preemption to insulate themselves from competition from the national bank industry,'' said Howard Cayne, a lawyer with Arnold & Porter LLP in Washington. ''But they don't have an inherent interest in preemption.''

Perhaps not, but their stance on preemption has made for unusual politics.

The group is allied with state bank regulators against preemption, even though they continue to disagree about whether banks ought to have real estate brokerage powers. More than 30 states have said that banks may offer such services, but few banks have done so.

''We share some fundamental, common beliefs,'' including ''that major changes in public policy should come from legislative bodies, and shifts in applicable state and federal law should be clearly intended by Congress,'' said John Ryan, an executive vice president at the Conference of State Bank Supervisors. ''Our appeal is philosophical; theirs is dollars and sense,'' but regardless, ''they are influential businessmen in their local communities, and they are influential in the political process.''

Donald Lampe, a lawyer with Womble Carlyle Sandridge & Rice PLLC in Greensboro, N.C., said the emergence of the realty group on preemption ''changes the dynamic'' of the debate.

''That they have stood up and raised their hand over these rules is a significant event,'' he said. ''That doesn't mean that I think they are correct, but the Realtors cannot ever be ignored in this town.''

That banks and real estate agents will continue to spar seems certain.

Banks ''have to continue to grow the portfolio; they need new lines of business,'' Ms. King said. ''The best line of business right now and in the future is real estate. They already have insurance. They already have securities. Other than real estate, there's not a whole heck of a lot else out there.''

TRIBUTE TO CAPTAIN SAMUEL G. BRYCE, USMC

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. HOUGHTON. Mr. Speaker, I rise today to recognize an exceptional officer of Marines, Captain Samuel G. Bryce. Captain Bryce will soon complete a highly successful two-year tour as the Marine Corps' Assistant Liaison Officer to the U.S. House of Representatives. It is truly a pleasure for me to recognize a few of his many outstanding achievements.

Captain Bryce entered our Corps as a private in January 1994 after graduating with honors from James Madison University in Harrisonburg, Virginia. After graduating Recruit Training at Parris Island, he went on to serve as an infantryman with the Marine Corps Security Force Company in Rodman, Panama where he participated in Operation Safe Haven, a humanitarian mission in support of Cuban migrants. He followed this tour with service as a Non Commissioned Officer with the illustrious Fleet Antiterrorism Security Team Company in Norfolk, Virginia. As a squad leader with F.A.S.T., then Corporal Bryce participated in Operation Fairwinds in Haiti, providing convoy and site security for U.S. supported nation-building projects. Shortly after returning from Haiti, his team was dispatched to Bahrain to establish security at U.S. Naval facilities in response to the Khobar Towers bombing. During his final months with F.A.S.T. he was promoted to Sergeant and selected for the Enlisted Commissioning Program.

In September of 1997 he attended Officer Candidate School. Upon graduation he was commissioned and then sent to the Basic Officer Course and the Infantry Officer Course. In November of 1998 he was assigned to the 1st Battalion, 5th Marine Regiment where he was given command of 3rd Platoon, Company C. In this capacity he deployed with his battalion as part of the 31st Marine Expeditionary Unit where he participated in Operation Stabilise in East Timor. Upon return he was assigned as commander of the 81 mm Mortar Platoon, which he led during a subsequent overseas tour with the 31st MEU. During his final year with the battalion, he served as the Executive Officer, and ultimately the Commanding Officer of Weapons Company.

Completing this tour in March 2002, Captain Bryce was assigned as the Marine Corps' Assistant Liaison Officer to the U.S. House of Representatives. For the past two years he has expertly represented the Marine Corps on Capitol Hill and contributed enormously to the success of the Liaison Office's mission. His skills and diligent attention to duty enabled him to successfully lead five Staff Delegations to every major Marine Corps facility in the United States, assisting Congressional staff in learning how the Marine Corps fights, trains, and lives. The reputation he earned on these evolutions was such that he was also given the task of leading several Congressional Delegations overseas, including my own to Malaysia and the first into Haiti after the new President took power.

The real strength or Captain Bryce's time on Capitol Hill was felt through his education and outreach activities. He organized monthly briefs for staff members to assist them in understanding the capabilities and program needs of the Corps, and was the driving force behind the Capitol Hill Running Club. Under his leadership the club grew to nearly 100 runners and has seen unprecedented success in preparing members for running the Marine Corps Marathon. As he leaves, there will be a large gap for the Marine Corps to fill on Capitol Hill. His initiative, leadership, and tireless efforts as the Assistant House Liaison Officer have had a lasting impact on improving the war fighting capabilities and the quality of life for Marines throughout the Marine Corps. Most importantly, he has epitomized all of those qualities that America has come to expect of her Marines—absolutely impeccable integrity, moral character and professionalism.

As he reports to his next assignment as a student at the Expeditionary Warfare School in Quantico, Virginia I want wish him, his lovely wife Stacey, and their new son Griffin continuing success. Fair winds and following seas, Marine.

CELEBRATING THE 50TH ANNIVERSARY OF FORT UNION NATIONAL MONUMENT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize the upcoming 50th anniversary of the legislation that created Fort Union National Monument in my home state of

New Mexico. At Fort Union National Monument, visitors can learn about life at this frontier outpost during the early days of the American settlement of the West. As a key stopover point for travelers along the Old Santa Fe Trail, Fort Union was witness to countless expeditions, Indian raids, and commercial gatherings during its short but storied existence. Today, the venerable post is a shadow of its former grandeur, but even in ruins, it stands as an impressive memorial to the countless soldiers of the frontier army who passed through.

On June 28, 1954, President Dwight D. Eisenhower signed into law legislation authorizing the U.S. Department of Interior to acquire the site and remaining structures of Fort Union for national monument purposes. With strong backing from the New Mexico State Legislature and Governor Edwin Mechem, U.S. Representative John Dempsey and U.S. Senator Clinton P. Anderson introduced the bills that ultimately created the present day Fort Union National Monument. Their foresight and hard work all those decades ago are worth remembering today.

Few places today inspire imagination about the American frontier experience as does Fort Union National Monument. Located in the Mora Valley in northeastern New Mexico, the 720-acre National Park Service domain contains an array of cultural and natural resources. Its principal features—the ruts of the Santa Fe Trail, the ruins of the Fort Union military post, and the dazzling prairie scenery—daily attract travelers from around the world.

Fort Union was established in 1851 by Lieutenant Colonel Edwin V. Sumner as a guardian and protector of the Santa Fe Trail. During its forty-year history, three different forts were constructed close together. The third and final Fort Union was the largest in the American Southwest, and functioned as a military garrison, territorial arsenal, and military supply depot for the Southwest.

As a military post to protect travel and settlement for forty years, Fort Union played a key role in shaping the destiny of the Southwest. During the first decade of its existence, the fort stood as the guardian of the Santa Fe Trail. The fort acted as a federal presence in the Territory of New Mexico. The Civil War added to the fort's fame at the battle of Glorieta Pass, where Union soldiers stopped the invading Southern columns. Historian Robert Utley noted, ''The ruins of Fort Union graphically commemorate the achievements of the men who won the West.''

On February 21, 1891, singing ''There's a Land that is Fairer than This,'' the Army marched out of Fort Union for good. The post lapsed into ruins in the following decades. Roofs collapsed, walls of buildings slowly crumbled under the onslaught of the elements, and grass grew high on the vast parade ground.

After World War II, people in New Mexico revived an earlier campaign to create the Fort Union National Monument. New Mexicans had learned that the previous efforts failed because of the lack of local interest in the project. This time local citizens and interest groups decided to lead the movement to ultimate success. Fort Union, now in private hands, was scheduled to be demolished. With a strong will to save the historic site, local citizens took the issue to the Las Vegas-San Miguel Chamber of Commerce. On June 20, 1949, board members of the Chamber voted to seek aid from the federal government and the State of New Mexico to preserve Fort Union for all time. The Chamber's action was instrumental in creating the present-day Fort Union National Monument. We continue to be grateful for their efforts.

Mr. Speaker, Fort Union National Monument is open to the public throughout the year. Interpretive programs are offered with living history talks and demonstrations on summer weekends, giving visitors the flavor of life in a frontier fort. The visitor center has displays of military equipment and clothing, a bookstore, Santa Fe Trail information and films. Using this abandoned military post, the National Park Service has established a dialogue between the past and the present. The place has been serving society as a museum of the past, a classroom of the present, and a model for the future, and it deserves the honor of a national treasure.

PAYING TRIBUTE TO DORALYN GENOVA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Doralyn Genova and thank her for her dedication to Colorado as a Mesa County Commissioner. Her dedication and tireless efforts have done much to ensure a promising future for her constituents. As Doralyn celebrates her retirement, let it be known that she leaves behind a terrific legacy of commitment to the people of Mesa County and the State of Colorado.

A third generation Mesa County native, Doralyn graduated from Mesa State College, and ran her own business, Data Supplies. When Doralyn was elected to serve as Mesa County Commissioner in 1988, she was only the second woman elected to the position of county commissioner in Mesa County's history. She serves on Club 20's board of directors, the Governor's Interregional Council on Smart Growth, the Colorado Emergency Planning Commission, Headstart Grand Valley Regional Transportation Committee, and the Mesa County Economic Development Council for Sustainable Agriculture. She also served as president of 16 Western District Counties, and was chairperson for the Land Use Committee for Colorado Counties Incorporated and serves currently as the Secretary. Doralyn's community involvement also includes membership in the Grand Junction Area Chamber of Commerce, Mesa County Women's Network, Mesa County Historical Society, Mesa County Cattleman's Association, and Mesa County League of Women Voters.

Doralyn's dedication to her community has garnered her numerous awards and recognition over the years. She was ''Westpeoples'' Woman of the Year in 1986 and was the first recipient of Club 20's Dan Noble Award. She has also received awards from the Colorado Division Disaster Emergency Services, Glade Park Volunteer Fire Department, Governor's Conference on Library and Information Services, and Mesa County Friends of 4–H. Most importantly, Doralyn is dedicated to her husband Mike, and sons Anthony, Nicholas, and Dominic.

Mr. Speaker, I am honored to pay tribute to Commissioner Doralyn Genova before this body of Congress and this nation, and to congratulate her on an outstanding career of public service. Her selfless dedication to her community and the people of Colorado as a Mesa County Commissioner is truly remarkable. I wish her all the best in her future endeavors.

CONGRATULATING ROBERT J. RIDENOUR

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate Robert J. Ridenour on receiving the 2004 Citizen of the Year award from the Bedford Rotary Club of Bedford, Pennsylvania. His efforts to preserve the history and culture of my home town of Everett have positively impacted our community and well beyond.

For most people, after a lifetime of working, the well deserved rest and relaxation that comes with retirement is usually cherished and savored. However, Robert Ridenour decided on a different path and instead chose to spend his retirement working to improve his community in any way possible.

It has been said that wisdom comes with age, and in the case of Robert Ridenour this old cliche proves to be true. In recent years he has had the foresight to dedicate his energy to preserving history, which will ground and educate younger generations while guiding them towards future progress. His tireless efforts to promote Pennsylvania's history will benefit his community for countless years to come.

Mr. Ridenour is the personification of the Bedford Rotary's motto of ''Service Above Self.'' He has demonstrated enthusiasm and care for the county which he has served, and his spirit and dedication have infiltrated his every action. The legacy he has made is one that every American should emulate.

As a pillar of strength within his community of Bedford County, Mr. Ridenour has been a role model and leader who is admired by many. For his incomparable generosity and commitment to excellence, Robert Ridenour deserves the highest recognition.

IN HONOR OF EDIE KARAS, COMMUNITY STALWART

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. FARR. Mr. Speaker, I rise today in honor of my dear friend Edie Karas, one of the most dedicated and energetic community members in my Central California district, and indeed the nation and the world. A life-long resident of the Monterey Peninsula, Edie has played an active and vital role in countless civic organizations. Along with her late husband of more than 50 years, the former Monterey County Supervisor Sam Karas, Edie made up half a dynamic duo of public service. Since Sam passed away in 2003, Edie has carried on with that tradition of service to both her neighbors next door and her neighbors around the world.

A short account of Edie's service would include the time that Edie has donated to the Monterey Civic Club, Monterey Recreation Committee, Robinson Jeffers' Tor House, Alliance on Aging, Monterey Bay Symphony, State Theatre Preservation Society, and the list goes on. In addition, several years ago, Edie and her late husband, the former County Supervisor Sam Karas, traveled to Bosnia where they served as international election observers.

Mr. Speaker, today I rise to celebrate Edie's work on behalf of the Big Sur Health Center, which will recognize her service in a tribute on June 18, 2004. I became involved with the clinic in the late '70's as a member of the Monterey County Board of Supervisors. At that time the Big Sur Clinic had more certified EMTs per capita than any place in the U.S. and provided free emergency services and an ambulance maintained by the Red Cross. Today the Health Center serves many of the outpatient health needs of the rural Big Sur community in a modest facility made up of two 35 year old portable trailers and a treasury of heart, soul, and dedication supplied by its volunteers. For much of the last decade, Team Karas has been instrumental in its growth and success.

When they joined the Center's board in the late 1990s, the Center faced deep financial hardship. Sam took immediate action and began to contact the Pebble Beach Foundation and other funding sources outside the immediate Big Sur community. His efforts put the Center on the map for charitable foundations and government agencies. The Center soon regained its financial footing and was back on the path to fiscal health.

However, while Sam was out front making the initial calls and receiving the credit, I have always suspected that it was Edie who did the work. I see evidence of that in the fact that the Center will soon replace its venerable trailers with a new building, a development in which Edie has played no small part in seeing to fruition. Edie continues to be the spark of energy that animates the Center's fundraising efforts and every other cause that she embraces. So it is with true pleasure that I join with the Big Sur community and the people of Monterey County in recognizing Edie Karas for her service to the Big Sur Health Center. I wish Edie and the Center the best of health.

SALUTING JUDGE BRUCE EINHORN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. BERMAN. Mr. Speaker, I rise today to ask my colleagues to join in saluting my friend, Judge Bruce Einhorn, Chair of the Pacific Southwest Regional Board of the Anti-Defamation League (ADL). He is a remarkable man whose accomplishments are legion.

During Judge Einhorn's tenure as Regional Chair, the organization pressed law enforcement authorities for vigorous application of appropriate hate crimes laws, and successfully opposed the deceptively named ''Racial Privacy Initiative.'' He helped the ADL prevent the spread of hatred and intolerance through the creation of new and ongoing programs designed to fight the defamation of the Jewish people and ensure justice and fair treatment for all. He also served as Chair of the ADL's San Fernando, Conejo and Antelope Valley Boards.

He is presently an ADL National Commissioner and is a member of both the League's Executive Committee for the Pacific Southwest Region and its Latino-Jewish Round Table. Also, he is a founding member of both the U.S. Holocaust Memorial Museum in Washington, DC and the Museum of Tolerance in West Los Angeles.

In addition to his work with non-profits, Judge Einhorn has developed an impressive legal career. He is a well-respected Los Angeles U.S. Immigration Judge. He also serves as Adjunct Professor of International Human Rights Law and War Crimes Studies at Pepperdine University's School of Law, where he received the 1997 David W. McKibbin Excellence in Teaching Award. For 11 years, Judge Einhorn served as a trial attorney and later as a Deputy Director and Litigation Chief for the U.S. Justice Department's Office of Special Investigations, the agency responsible for seeking the identification and prosecution of Nazi war criminals residing illegally in the United States.

Judge Einhorn's commitment to civil rights, justice and tolerance for all people has been repeatedly recognized. He is the proud recipient of the U.S. Attorney General's Special Commendation Award and the State of Israel Bonds Lifetime Professional Achievement Award. In October 1999, in the presence of President Bill Clinton, he also received the Ginsberg Prize for Leadership in Civil Rights from the Anti-Defamation League at its National Commission Convention in Atlanta, Georgia.

Please join me in honoring Judge Bruce Einhorn and thanking him for his outstanding contributions to our community and for his steadfast commitment to the ADL's critical mission.

PAYING TRIBUTE TO BOHN MUSGRAVE ON HIS 100TH BIRTHDAY

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Mr. Bohn Musgrave, who will celebrate his 100th birthday on July 31, 2004.

Mr. Musgrave was born in 1904 in a log cabin in Michigan's rural Upper Peninsula. After graduating from high school and attending Central Michigan University, he taught in a two-room country school and then worked as a principal in the Sebawing School District. Following his marriage to wife Doris in 1926 and the birth of his two children, Bohn earned a degree in Agriculture from Michigan State University and worked as an Agricultural Agent for Kalkaska and Mecosta Counties. In 1954, Mr. Musgrove relocated to the Lansing area and worked as a supervisor in the Michigan State University Extension Service until his retirement in 1969.

Even after leaving the workforce and surviving a bout with bone cancer in his right leg, Bohn stayed active, traveling the world with Doris, visiting all 50 states and 41 countries. After his wife's death in 1988, Bohn took on the role of family historian, compiling and self-publishing five books of poems, personal anecdotes, and memories for his family and close friends. His fondness of history and love of Michigan led him to contribute heavily to A History of Columbus Township, published in 2000, and to an oral history compiled by Michigan State University about the logging industry. Ever eager to impress upon young minds the significance of days past, he has visited elementary schools in the Lansing area to share his knowledge of the history of the Upper Peninsula. Mr. Musgrave is also a charter member of Haslett Community Church, which celebrates its 50th anniversary this year.

Mr. Speaker, Bohn Musgrave has been a devoted father and dedicated worker. He is a master storyteller, poet, and artist. Today, he still resides in Haslett, Michigan. I would like to ask my colleagues to join me in celebrating Bohn Musgrave's 100th birthday.

IMPROVING ACCESS TO ASSISTIVE TECHNOLOGY FOR INDIVIDUALS WITH DISABILITIES ACT OF 2004

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 2004

Mr. HOLT. Mr. Speaker, I am pleased to support H.R. 4278, the Improving Access to Assistive Technology for Individuals with Disabilities Act.

The bill reauthorizes the Assistive Technology State Grant Program, and the State Protection and Advocacy program. It also will help to ensure a larger share of the resources distributed under the program goes directly to individuals with disabilities. Assistive technology devices include a broad range of aids, such as wheelchairs, communication devices and computer hardware that help individuals compensate for living with a disability.

The Assistive Technology State Grant program was first enacted in 1988 as a program to provide states funds to establish an infrastructure for increasing access and distribution to assistive technology devices. Millions of Americans depend on assistive technology devices to remove barriers to education, employment, and even daily communication.

The bill also funds the State Protection and Advocacy programs. Its purpose is to assist individuals in overcoming barriers in the workplace and in the government and making assistive technology more accessible to individuals with disabilities throughout the state.

I would like to thank Representatives BUCK MCKEON, JOHN BOEHNER, DALE KILDEE and their staffs for working with me to make changes to the bill regarding State Protection and Advocacy programs during the committee markup process. The bill now includes changes that would allow Protection and Advocacy systems to carry over ''program income'' for 2 additional years. These are funds generated by program activities, typically attorneys' fees reimbursements, for 2 additional years.

Under current law, Protection and Advocacy programs can carry over ''program income'' for

one additional fiscal year past the year in which the program income was received. This can be very difficult, particularly for small states where the award could be sizes that they are not prepared to properly spend and can not budget for. I hope this change will enable Protection and Advocacy programs that receive "program income" to invest the funds back into the program. This will allow states to put the additional funding to the best use possible for people with disabilities without being constrained by time.

Speaker, I ask my colleague to support this bipartisan bill that will provide comprehensive technology-related assistance for adults and children with disabilities.

PAYING TRIBUTE TO MAC MYERS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. McINNIS. Mr. Speaker, it is a privilege to rise today and pay tribute to Mac Myers and thank him for his outstanding commitment to serving the people of Colorado as District Attorney for the 9th Judicial District. His years of service have done much to enhance the safety of the community and the prestige of the District Attorney's Office. As Mac celebrates his retirement, let it be known that he leaves behind a wonderful and strong legacy of dedication to the District Attorney's Office and the citizens of Colorado.

Mac graduated from the University of Colorado with a bachelor's degree in English, and received his law degree from the University of Denver. He worked as a deputy district attorney in Colorado Springs and Breckenridge before being hired to serve the people of Pitkin, Garfield, and Rio Blanco counties as a deputy district attorney in the 9th Judicial District in 1986. In 1996, Mac was elected district attorney for the 9th Judicial District, and was subsequently re-elected in 2000. During his tenure as district attorney, he has worked to enhance the communication and relationship between his office and the local police departments. He has also raised awareness and increased prosecutions for sexual assault and domestic violence cases, as well as promoting drug abuse prevention programs.

Mr. Speaker, it is clear that District Attorney Frank Daniels has ceaselessly dedicated his time and efforts to serving his district and the people of Colorado as the District Attorney for the 9th Judicial District. I am honored to bring his hard work and achievements to the attention of this body of Congress and this nation today. Thank you for all your service Mac, and I wish you all the best in your future endeavors.

HONORING CHRISTOPHER CLARK

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. GERLACH. Mr. Speaker, I rise today to honor Christopher Clark, the President and Chief Executive Officer of Johnson Matthey Inc., on the occasion of his retirement after 42 years of dedicated service to the company.

Johnson Matthey is a global advanced technology company with operations in such areas as catalysts for chemical processes; emissions control catalysts for automotive, diesel and stationary source applications; pharmaceutical materials; and materials for medical and industrial products. In 1909, Johnson Matthey opened its principal operating company in Pennsylvania. Today, its North American corporate headquarters is located in Chester County, Pennsylvania.

Mr. Clark's career with Johnson Matthey is long and distinguished. Throughout his 42 years with Johnson Matthey, he had a wide range of experience with all aspects of the Company's operations. Mr. Clark joined Johnson Matthey in 1962 and soon after was appointed product manager in 1969. Six years later, Mr. Clark was promoted to product group manager and from 1979 to 1984, he was the marketing manager of Johnson Matthey's Metal Products Division in the USA. Mr. Clark went to the UK in 1984 as the general manager of the company's noble metals fabrication business.

Mr. Clark was appointed executive director of Johnson Matthey in March 1990 and then in October 1991, he assumed responsibility for the company's Materials Technology Division. In 1996 he was promoted to chief operating officer and, in 1998, Mr. Clark was appointed chief executive officer of the company.

During Mr. Clark's tenure as CEO of Johnson Matthey, the company's operations in Chester County have undergone significant expansion. For example, the Emissions Control Technologies operations in Wayne, Pennsylvania have produced more catalysts for the automotive industry than any other facility in the world. Johnson Matthey has also established remarkable gas-processing technologies in West Chester, Pennsylvania under the leadership and supervision of Mr. Clark.

In May 2002, Mr. Clark was awarded the Society of Chemical Industries' Centenary Medal and, in June 2003, he was honored again with the International Precious Metals Institute's Junichiro Tanaka Distinguished Achievement Award for his significant contribution to the advancement of the precious metals industry.

Mr. Speaker, I ask that my colleagues join me today in honoring a highly successful businessman and exemplary citizen, Christopher Clark, for his many years of contributions and distinguished service to Johnson Matthey and to his community, state, and nation. And I may ask that we wish him the very best of success and happiness with his retirement.

EXPRESSING SENSE OF CONGRESS THAT KATHERINE DUNHAM BE RECOGNIZED FOR HER GROUNDBREAKING ACHIEVEMENTS IN DANCE, THEATER, MUSIC, AND EDUCATION, AS WELL AS HER WORK AS AN ACTIVIST STRIVING FOR RACIAL EQUALITY THROUGHOUT THE WORLD

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 2004

Mr. RANGEL. Mr. Speaker, it is with great pleasure that I rise today to salute Katherine Dunham, a woman who raised herself from her humble origins in East St. Louis through energy, determinism and formidable talent to become a world famous cultural icon and treasure. Having earned her bachelors, masters, and doctoral degrees at the University of Chicago with, the help of the prestigious Rosenwald fellowship. She has worked tirelessly her entire adult life helping others. She continues to contribute actively to her community even though just recently celebrated her 95th birthday. Today I recognize Katherine Dunham for her groundbreaking achievements in the performance arts, education and for her contributions as an activist striving for racial equality.

Katherine Dunham propelled the civil rights movement and opened doors or opportunity through her personal achievements as she became the first African-American to progress in her many fields of expertise.

Katherine Dunham merged her studies in anthropology with Caribbean and Brazilian dance whereby creating a new discipline. She utilized her education to create her many dance, performance art and education centers. In 1931 Dr. Dunham founded Les Ballet Negre, the first black dance company in the United States. In the years that followed, Katherine Dunham revolutionized American dance by incorporating the roots of black dance and ritual, and by transforming these elements into choreography accessible to all through the Katherine Dunham Technique.

Les Ballet Negre later became known as the Katherine Dunham Dance Company, which successfully toured over 60 countries in the 1940s.

In 1945 Dr. Dunham founded the Dunham School of Dance and Theatre in Manhattan. The Dunham School provided a centralized location for students to immerse themselves in dance technique while also providing education in the humanities, languages, ethics, philosophy, and drama. The school educated and raised countless inner-city youth, youth who would go on and make great change themselves.

In 1967 Dr. Dunham established the Performing Arts Training Center in East St. Louis, Missouri, which enrolled high-risk youth into programs in fine, performing and cultural arts. Katherine's outreach to some of the toughest members of the East St. Louis community often put her in harm's way. She put her life on the line constantly by recruiting gang members and known troublemakers. Katherine's goal was to stop the violence in the black community through the arts. She set out to transform their lives, and did so.

In 1970, only three years after the founding of Performing Arts Training Center, Dr. Dunham brought more than 40 of her students to the White House to perform for the Conference on Children.

Katherine Dunham was also a pioneer with a significant impact on Broadway. She broke new ground by becoming the first African-American director at the New York Metropolitan Opera.

Even though Katherine Dunham carried out a significant amount of work in the United States, she was never limited to helping only those within our Nation's borders. Katherine Dunham is also a passionate humanitarian who has lived in Haiti and consistently fought for Haitian rights and a better relationship between the United States and Haiti.

Responding to the desperate conditions of Haitian people in 1993, Katherine, at the age of 82, went on a 47–day hunger strike. She ended her hunger strike only when she was convinced, and rightfully so, that she was more valuable to the humanitarian fight, alive than dead. I recognize Dr. Katherine Dunham as one of the most passionate artists educators this country has ever seen.

For all these reasons and for receiving countless honors and awards, including more than 10 honorary doctorates, the Presidential Medal of Arts, the French Legion of Honor, and the NAACP's Lifetime Achievement Award, she has received for her work, I stand to salute Katherine Dunham, humanitarian, civil rights activist, and performance artist.

CONGRATULATING THE CHICAGO ZONING REFORM COMMISSION

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to congratulate Chicago's Zoning Reform Commission and its Co-Chairmen, Alderman William J.P. Banks and David Mosena, for the recent completion of the new City of Chicago Zoning Code.

By understanding the changing needs of Chicago's residential and commercial population, the Commission has ensured that Chicago will continue to be a modernized, world-class city for the 21st century. The efforts of Alderman Banks, Mr. Mosena and the other members of the commission helped lead the Zoning Reform Commission toward the first comprehensive rewriting of Chicago's Zoning Code since 1957.

Four years ago, Mayor Richard M. Daley appointed the Zoning Reform Commission to head this massive undertaking. The Commission sought input from the commercial sector, the Aldermen who represent these unique neighborhoods, and the public at large through numerous open public forums. The Commission is to be congratulated for the breadth of support they were able to garner for the new proposal before they considered their job finished.

The new Zoning Code has laid the foundation for a superior zoning map to be available for community leaders and residents. The ordinance includes improvements beyond its original structure—which simply addressed height, bulk and location—to set standards to deal with modern issues such as green space, increased use of public transportation and job retention. With its passage, a new vision for Chicago's future has been secured.

I am also particularly proud that two members of the Zoning Reform Commission represent areas of the 5th Congressional District. Alderman William J.P. Banks, the Chairman of the City Council's Zoning Committee, and Alderman Ray Suarez, the Chairman of the City Council's Committee on Housing & Real Estate, continue to provide their vast experience, expertise and knowledge in directing the planning and development of Chicago.

Mr. Speaker, on behalf of the people of the Fifth Congressional District of Illinois, and indeed all of Chicago, I am privileged to congratulate the Zoning Reform Committee for their achievements in providing a new Zoning Code, and thank them for their diligent work on this important effort.

PERSONAL EXPLANATION

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. GONZALEZ. Mr. Speaker, on rollcall No. 231, had I been present, I would have voted "yes."

TRIBUTE TO PETER J. PURDY

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. CROWLEY. Mr. Speaker, I rise today to pay tribute to Peter J. Purdy, President of the U.S. Committee for the U.N. Population Fund, who will be retiring at the end of this summer after a thirty-year career dedicated to improving the lives of women and children in the developing world.

Peter began his remarkable career as Country Director in India for the Thomas A. Dooley Foundation and later as Country Representative in Indonesia for Church World Service. These early experiences in India and Indonesia were to set the stage for a lifelong commitment to helping the world's poorest women have access to quality reproductive and maternal health care services.

For the next twenty-seven years, Peter traveled throughout the developing world as the Director of the Margaret Sanger Center, the international-arm of the Planned Parenthood Federation of New York City. Peter worked closely with both Government and Non-Governmental Organizations to improve the quality and availability of reproductive health care for women in Africa, Asia and Latin America.

Since 1999, Peter has directed his considerable talents to building support with American citizens for the work of the United Nations Population Fund. It is through this context, I have had the pleasure of getting to know Peter as both a friend as well as an expert guide to some of the poorest and most forgotten places in the world. In Malawi, Peter introduced me to a traditional birth attendant who regularly delivered babies in a humble mud hut without any modern medical assistance. When asked what the U.S. Government could provide her, she said simply "clean razor blades and kerosene to provide light for night deliveries." My meeting her was a singularly memorable experience but for Peter she was but one of the many women he has met and helped along the way of his career devoted to saving women's lives. Peter was a joy to travel with, and his insight and dedication added greatly to my experience in Africa.

Peter has told me that he plans to devote his retirement to spending time with his wonderful wife, Susan, and playing jazz piano. Knowing Peter, however, I am confident that he will continue to advocate and educate all that he meets on improving the lives of women and their families around the world.

Thank you, Peter, for your lifelong dedication to making the world a better place by enabling women to live healthy lives and to have healthy babies. Millions of people around the world have been touched by your work over the last thirty years. Best wishes in your retirement.

PROVIDING RAPID ACQUISITION AUTHORITY TO SECRETARY OF DEFENSE TO RESPOND TO COMBAT EMERGENCIES

SPEECH OF

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 2004

Mr. DEFAZIO. Mr. Speaker, I would like to take a few minutes to discuss H.R. 4323. This legislation has the best of intentions. It would provide authority for the Secretary of Defense to expedite procurement of equipment that is necessary to protect against combat deaths. While I agree with the premise, I am concerned about the details of the bill.

Obviously, we all, regardless of political party, want our men and women in uniform to have the equipment they need to protect themselves and successfully carry out their mission. Just last month, I voted in favor of H.R. 4200, the fiscal year 2005 Department of Defense Authorization Act. This legislation boosted funding above and beyond the levels requested by President Bush for a variety of critical equipment like armored Humvees, advanced body armor, and roadside bomb suppression devices.

H.R. 4200 also included a provision to speed up the procurement of equipment necessary to prevent combat casualties that is identical to the text included in H.R. 4323. While I had some reservations about the provision, I supported its inclusion in H.R. 4200 and voted for final passage of the bill because it contained a variety of important pay and benefit improvements for our men and women in uniform. And, as I mentioned, it increased funding for critical equipment. I was hoping that the procurement provision could be fine-tuned in the conference with the Senate.

However, the House Republican leadership decided to bring the procurement provision to the floor as a stand-alone measure, H.R. 4323, in order to fast-track the bill through Congress and get it to the President without getting bogged down in the various debates surrounding H.R. 4200. The bill is on the floor this week under a procedure that prohibits amendments to perfect it.

I voted against H.R. 4323 because I am concerned about rushing through a bill that, while well intentioned, may not provide the benefit to our men and women in uniform that its proponents claim.

The bill would require that the Secretary of Defense establish an expedited procurement process for equipment that can prevent combat casualties occurring in the field. In order to speed up the process and allow a contract to be awarded within 15 days of an identified need, H.R. 4323 would waive the statutory requirement that the equipment be tested and evaluated for effectiveness.

Some of my colleagues may remember during the Vietnam War when modified M–I6s

were rushed into soldiers' hands. Tragically, the weapons were not adequately tested prior to distribution in Vietnam. It turns out they jammed frequently, causing untold number of deaths when soldiers' were left without an automatic weapon when facing enemy fire.

Rather than waiving the requirement that emergency equipment be tested and evaluated for effectiveness, as H.R. 4323 currently does, and risk the repeat of another debacle like the M–16 during Vietnam, I believe this bill should accelerate the testing and evaluation of critical equipment so that it can be procured more quickly, but still safely.

It does our soldiers no good to have equipment procured and distributed quickly if it doesn't work as its supposed to. Amending H.R. 4323 to keep the requirement that equipment to be procured under this new streamlined authority still be tested would ensure that the equipment our troops need would provide the expected level of protection.

EXPRESSING SENSE OF CONGRESS THAT LIONEL HAMPTON SHOULD BE HONORED FOR HIS CONTRIBUTIONS TO AMERICAN MUSIC

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 2004

Mr. RANGEL. Madam Speaker, I challenge my fellow members of Congress, as well as my fellow Americans, to listen closely as we walk our respective paths today. I ask that as we journey back to our offices, and then on to our homes, we keep our ears pricked, attentive to the sounds which often go ignored in the clamor of full days and long nights. If we are truly mindful, vigilant in our perception of the hums, clicks and tones that surround us, some of us might notice that within the very rhythm to which we walk, the harmony which paces us on our diverse journeys, we find slight hints of "Flying Home," traces of "Stardust," and shades of "Midnight Sun." Mr. Speaker, Lionel Hampton is more than a giant of jazz and an impassioned servant of his community; he is a part of the fabric of this nation, a lasting presence in the daily melody of the United States.

Lionel Hampton spent his youth in Alabama, Wisconsin, and Chicago listening to the music of Louis Armstrong and dreaming of a future in the budding musical genre called "jazz." After stints on the drums and marimba, Hampton took up the vibraphone and set the benchmark for excellence on that instrument, for which he became known as the "Vibes President of the United States.

Because of the racism that permeated the music business in the 1930s Hampton's performances were limited to a small number of venues, so he partnered with White clarinetist and bandleader Benny Goodman and set about making history, for the first time creating an integrated public face of jazz music. Between 1936 and 1940, Hampton and Goodman created perhaps the greatest swing recordings of all time: "Moonglow Opus 1/2" and "Gone With What Wind?" among the duo's other recordings are the gold standards of the Swing Era, and they helped to elevate Hampton to the status of a jazz superstar.

In 1940 Hampton established his own big band, "Lionel Hampton and His Orchestra," and it was from this orchestra that the songs of our time originated. Audiences swayed and lindy-hopped to "Hamp's Boogie Woogie" and "Evil Gal Blues," and 'Hamp' serenaded the masses while breaking down the color line, becoming the first African American to play in a number of major hotels and music halls. Hampton's orchestra became a training ground for great musicians, graduating legends such as Dexter Gordon, Cat Anderson, Charlie Mingus, Quincy Jones, Dinah Washington, and Aretha Franklin.

As much as a presence as Lionel Hampton was in the jazz industry, his work in his community was equally if not more potent. He was a goodwill ambassador for the United States, appointed by President Eisenhower to spread the music of jazz and the message of equality in his many tours to Africa, the Middle East, Europe, and Asia. He also worked tirelessly for his beloved Harlem, founding the Lionel Hampton Development Corporation which built quality low- and middle-income housing in New York City and Newark, New Jersey. One of his projects, the Gladys Hampton Houses, is named for his wife, the illustrious singer Gladys Hampton, who died in 1971 after a 35-year marriage.

Hampton served on the New York City Human Rights Commission and was appointed as "Ambassador of Music" to the United Nations in 1985. In 1998, he and Lloyd Rucker founded the Lionel and Gladys Hampton Jazz History Education Foundation, an organization that continues in the honorable work of teaching disadvantaged young people about jazz. For his efforts he received both the Kennedy Center Honor and the National Medal of the Arts, and in 1987 the University of Idaho named its School of Music after Hampton.

Lionel Hampton played the vibraphone and flashed his million-dollar smile to audiences across the globe almost until the date he succumbed to heart failure, Saturday, August 31, 2002. He was a towering figure of musical greatness and global renown, but he often bent low to help the neediest among us, and for this New York, the African American community, and indeed our entire nation is grateful. Our country's swing is Hampton's swing, our jazz is Hampton's jazz, and thus there is no figure more worthy of honor by this body than Lionel Hampton.

Again, I entreat us all to listen closely on our daily journeys; I dare say that as we walk we might, unwittingly, be paced by the lively report of "Flying Home."

PRESIDENTIAL MEDAL OF FREEDOM FOR POPE JOHN PAUL II

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to support and recognize the President's awarding of the Presidential Medal of Freedom to Pope John Paul II. Few others in the history of the world can match John Paul II's lifelong record of championing peace, liberty, and human rights.

Born in 1920 in Poland, Karol Jozef Wojtyla has lived a life of service to his faith and to the people of the world. During the occupation of Poland, he courageously defied the Nazis to aid the persecuted Polish Jews, and similar acts of bravery have marked his entire public life. After his ordination in 1946, John Paul II worked tirelessly to uphold the teachings and ministry of the church in Poland, a constant risk under the Communist rule.

Recognizing his lifelong devotion to his faith and to humanity, the College of Cardinals elected John Paul II the 264th pope in 1978. Last year I was proud to join with my colleagues in voting for a resolution recognizing the twenty-fifth anniversary of his papacy.

During John Paul II's first visit to Poland as the Pope in l979, he delivered 36 addresses. At least ten million of Poland's 35 million people saw him in person, in the nine cities, villages and shrines that he visited.

Throughout his papacy, John Paul II has joined world leaders on a variety of causes, always keeping the ideals of human dignity and high public morality at the forefront. His efforts on behalf of the people of Eastern Europe and the former Soviet Union were a direct catalyst in the birth of democracy for those countries once behind the Iron Curtain.

Beyond his extraordinary achievements, John Paul II has always had a remarkable affinity with the common man. He once said, "I hope to have communion with the people; that is the important thing." Time and again, he has communed with the people, demonstrating his commitment to humanity on a genuinely personal level. Through his caring and selfless acts of faith and leadership, he has engendered the love and respect of millions of people, both those within his church and those from beyond the Catholic faith.

Mr. Speaker, on behalf of my constituents, including 131,000 Catholics and 112,000 Polish Americans in the Fifth Congressional District of Illinois, I am proud to congratulate Pope John Paul II for receiving the Medal of Freedom. It is a fitting tribute to a truly remarkable human being whose countless achievements have proved an unyielding dedication to his Church, to God, and to humanity.

PERSONAL EXPLANATION

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. GONZALEZ. Mr. Speaker, on rollcall Nos. 229 and 230, I was delayed due to inclement weather and was unable to attend. Had I been present, I would have voted "yes".

VIET NAM NEVER AGAIN

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. OWENS. Mr. Speaker, quite a number of Washington leaders have expressed great anger over the comparison of the present war in Iraq to the past war in Viet Nam. Many insist that there is no logical comparison: Viet Nam was a war waged over many years and thousands of Americans died. With great glee they point to the fact that we have not yet had

the first thousand body bags come home from Iraq. Consider, Mr. Speaker, the fact that not one soldier killed or wounded has a wife, mother and family rejoicing about the overall low casualty rate. Human life is sacred and one tragedy of Viet Nam is that our government stopped counting one soul at a time. 58,000 heroes died in the jungles of Viet Nam and every American citizen has a duty to fight to guarantee that no body count statistics close to these are tolerated ever again. While we praise the heroism of the troops in Iraq we must confess that it is now crystal clear that this army is in the wrong place fighting the wrong enemy at great financial as well as human costs.

Before the years begin to go by and the body count mounts into the thousands, an exit strategy must be implemented now. Viet Nam has taught us that inevitably there will be an end negotiated to even a very complex war. In the interest of our nation and of humanity let us begin to work backward to initiate the negotiations for peace. The shape of the table might be the same as the table shape finally agreed upon in Viet Nam. What matters most is that this administration must invite all of the nations on the U.N. Security Council and all of the members of NATO to come to the table. The sharing of the powers of decision-making must be placed on the table. French, German, Russian and Chinese troops must be contributed to the effort to guarantee law and order in Iraq. The guerilla insurgents may hold out for many years but once we are able to make the argument to the Iraqi masses that we are not in their country to re-institute colonial subjugation or to pilfer their oil revenues the popular appeal of the violent uprising will fade away. An international presence with a clearly stated set of rules and a transparent timetable will encourage the development and actions of a new leadership class among the Iraqi population. The yearling for liberty is so great in the bosom of every human being that true freedom has its own overwhelming recruiting power.

Viet Nam is still described by former Defense Secretary Robert McNamara as an unfortunate series of mistakes; however, in dishonest riddles McNamara refuses to admit that Viet Nam was one of the greatest blunders in modern history. 58,000 died needlessly. We lost Viet Nam but the dominoes did not fall against us. The free world went on to win the cold war. Victory over Al Qaeda and world terrorism cannot be won in Iraq. Let this truth guide Washington decision-makers now before another 58,000 die.

NO NEW VIETNAM

In Iraq 58,000
Have not yet died.

58,000
Mothers, daughters, wives
Have not yet cried.
58,000
Did not fall yet,
The quota to make a wall
Has not yet been met.

From VietNam
58,000
Body bags came home;
Jungle warfare was tough,
Mid-East deserts deemed easy to roam,
Combat assumed to never get rough.

58,000
Must die first;
For oil and gas American appetite
Shows an unquenchable thirst;

58,000
To stop other nations from daring
To make demands for equal sharing.

58,000
Is a goal there is time to reach;
For present low count casualties
VietNam
Has no lessons to teach.

Families waiting
Will get no happy greetings
Til Rumsfeld holds
One hundred more meetings;
Colin must make more trips,
DeLay must crack his whips,
Speeches must be recited
On the fourth of July
Photo opportunities with wives
Of husbands shipped off to die.

58,000 never again—
Where in hiding
Have power brokers been?
Command Macnamara
To tell the true story,
Washington warmongers deserve
No star spangled glory,
On the front lines
The scene is always gory.

White House power at risk
Needed an Iraq fix;
Exposed now
Is what we always knew,
Addiction for oil
Infected the Neo-Com crew.

Rumsfeld decrees
That far across the seas
There is no new VietNam;
Every high tech trick
Has not yet been tried
We have not yet met
The WMD enemy threat;
Premature victory the White House tasted
Because 58,000 lives
Have not yet been wasted.

Thank America
For names carved in stone
Pray for all children left alone
When body bags bore their fathers home;
Home of the brave
Pledge to the credo
Each life we must save,
No more monuments
But lasting peace we crave.

58,000
Have names on the wall,
These heroes stand tall,
From heaven their voices call,
Blood soaked wisdom
From truth trenches will crawl:
58,000 never again!
Rise to resist the squander
Of the lives of brave men!

58,000
Did not fall yet,
The quota to make a wall
Has not yet been met.
58,000!

REMEMBERING MRS. MARCELLE WILDER, DEVOTED WIFE AND GENEROUS COMMUNITY SUPPORTER

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. COOPER. Mr. Speaker, Mr. TANNER and I rise today to celebrate the life of Mrs. John Wilder of Tennessee.

Mrs. Wilder was recognized across the state for her devotion to her husband, Lt. Gov. John Wilder, to her church and to the people of Tennessee. With the passing of Marcelle Ann Morton-Wilder on June 7th, Tennessee lost a passionate and generous spirit whose lifelong commitment to supporting her state, her community and her family inspired so many others.

Marcelle Wilder and John Wilder's partnership was itself an inspiration for all those who knew them. Married for 62 years, Marcelle Wilder met her husband-to-be as a young student in Fayette County. Following his election to the Tennessee Senate in 1958, and then to Lt. Governor in 1971, Marcelle joined her husband in working on behalf of all Tennesseans. She made frequent trips to Nashville to be at her husband's side as he led the Tennessee legislature. At the same time, she gave generously of her time and energy to many community organizations. She was a co-founder of the Tennessee Waltz Organization, a fundraiser for the Tennessee State Museum. She served on the Southern Legislative Conference Ladies Committee and the National Conference Ladies Committee for many years. In addition, she was a visible and energetic member of the Tennessee Bicentennial Committee in 1996. She also was an active member of her church, the Braden United Methodist Church, and was recognized for her work in researching and writing the history of the church.

On behalf of all Tennesseans, I offer my deep condolences to Lt. Gov. Wilder, their two sons, four grandchildren and five great-grandchildren. Their loss is one that all Tennesseans share as we pause to remember the many gifts Mrs. Wilder shared with all of us during her lifetime.

THE MOODY TROJANS

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to the Moody Trojans, winner of the 2004 Texas High School Class 5–A Baseball Championship. These young players came heartbreakingly close to the championship as runners-up in the 2000 tournament, but this year the prize was all Moody's.

Moody baseball is not only a community tradition in South Texas, but also a family tradition. The players are an extended family, reading each other's minds and anticipating each other's moves. This is a group that sincerely loves to compete.

The amazing skill of this team won the recognition of coaches, resulting in the Trojans finishing second in the nation in the Baseball America/National High School Baseball Coaches Association poll released Monday. This season for ''Moody Magic'' has been one for the record books.

This is an aggressive, confident team, whose amazing baserunning in the title game was a large part of their victory. Of course, with these young people, that attitude is pervasive not only on the baseball diamond, but in all that they do.

Moody's fans are as relentless as their team. They were over 75 percent of the crowd, cheering the players on, chanting, blowing horns, yelling, clapping and stomping feet. Like the Trojans of old, they didn't give

up until the battle was done. Over 1,000 fans met the team when their bus got back to Corpus Christi. The crowd rushed to the field as the players placed their trophy on the pitcher's mound.

The Moody Magic is part inspiration, part hard work, and part spirituality that draws this team close. They pray together, win together and lose together; but they keep their faith.

Four years ago, they prayed even while their opponent was awarded gold medals for the championship; they prayed that the experience would make them better people. It did, and 2004 was their year to win the gold medals.

These young people have learned the very best lessons sports can teach. They learned that winning is great, but winners on the field are made from teamwork and faith; and winners in life are those who master the fundamentals, never lose their faith, and put their whole effort into all they do.

I ask the House of Representatives to join me today in commending this outstanding group of young champions from "Moody Magic" who have learned—and lived—the most important lessons of competition, faith and dignity. Mr. Speaker, these young people have inspired us and made us exceptionally proud.

PERSONAL EXPLANATION

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. EHLERS. Mr. Speaker, on rollcall No. 232–242, I was detained by a meeting with Secretary of Commerce Donald Evans and his newly appointed Manufacturers Advisory Council, at which I spoke. The delay was compounded by an airline delay which prevented me from voting on the last three rollcall votes, on all of which I would have voted "no."

Had I been present, I would have voted as follows: rollcall No. 232, "yes"; rollcall No. 233, "yes"; rollcall No. 234, "yes"; rollcall No. 235, "yes"; rollcall No. 236, "yes"; rollcall No. 237, "yes"; rollcall No. 238, "yes"; rollcall No. 239, "yes"; rollcall No. 240, "no"; rollcall No. 241, "no"; and rollcall No. 242, "no";

MODIFYING CERTAIN DEADLINES FOR MACHINE-READABLE, TAMPER-RESISTANT ENTRY AND EXIT DOCUMENTS

SPEECH OF

HON. JEFF FLAKE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 2004

Mr. FLAKE. Mr. Speaker, today the House approved by voice vote H.R. 4417, a bill to modify certain deadlines pertaining to machine-readable, tamper-resistant entry and exit documents. I applaud the Chairman of the House Judiciary Committee, Congressman SENSENBRENNER, for advancing this important legislation, which is the first step in ensuring that the United States and Visa Waiver Program countries are able to honor the obligations that were put into law in the Enhanced Border Security and Visa Entry Reform Act of 2002.

I am concerned, however, that H.R. 4417 does not grant the Administration the full two-year period that will be necessary to achieve the issuance of biometric, machine-readable, tamper-resistant passports that meet international standards. The Secretaries of State and Homeland Security have stated that not even the United States will be ready to issue such passports by October 2005. The uncertainty and confusion created by a one-year extension for both potential travelers to the U.S., as well as the industries that serve them during their stays here, must be taken into account. The Senate is considering legislation that would grant the Administration the two-year period that they seek. I believe that this approach will facilitate an efficient completion of the passport development and issuance process, while also taking into account important national security concerns.

PAYING TRIBUTE TO RAY CHARLES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. RANGEL. Mr. Speaker, I rise today to pay special homage to a legendary entertainer and an American icon, Mr. Ray Charles, who passed away on June 10, 2004 at the age of 73.

Ray Charles Robinson (who later dropped his last name to prevent confusion with boxer "Sugar" Ray Robinson) was born September 23, 1930 in Albany, Georgia. Charles was born at the beginning of The Great Depression into a rural southern community, which denied opportunity and tried to kill the dreams of African Americans.

Ray Charles was blinded by glaucoma at age 7. After being sent to the St. Augustine school for the Deaf and Blind, he learned to read and write musical compositions in Braille, and mastered playing several instruments including the piano and the saxophone. By the age of 15, Charles was orphaned, and had begun to perform in Black nightclubs. Charles would later draw from the adversity of his early life a special soulfulness, which fueled new music that America had never known: the sultry combination of human problems and transgressions with the hope and inspiration of the spirit. He drew from diverse musical roots and made the music his own.

By 1959, Charles would have his first big hit, "What'd I Say". He would in an illustrious career win 12 Grammy Awards and a plethora of other musical achievements. Later, he would be called one of the forefathers of Rock n' Roll.

The music of Ray Charles was as diverse as his audience. He was able to cross musical genres including jazz, blues, gospel, soul, country, pop and rock and roll. Charles was a musical pioneer and throughout his career gained a large fan base in various racial and ethnic groups. He broke down the rigid walls between black and white music. Charles was an inspiration for the likes of Elvis Presley and The Beatles, who sought to incorporate his soulfulness in their music.

Charles would also use his cross-cultural ability to help achieve racial equality. Charles was a friend of Dr. Martin Luther King, Jr. and was active in the Civil Rights Movement of the 1960's, performing benefit concerts and giving up his personal resources. During the height of South African apartheid, Charles refused to play for segregated audiences in firm opposition to the legal segregation that was in place in that country.

Charles had a string of stirring hits including "Georgia on my Mind", "I Can't Stop Loving You", and "America the Beautiful", which he first performed in 1972 and then later at many occasions of national celebration including the inaugural ball for the late former president, Ronald Regan in 1985. In 1986 he received Kennedy Center Honors for his amazing ability to break down social barriers through his music.

Music lovers worldwide will consequently suffer a great void that no other musician will ever be able to fill. Ray Charles was able to inspire millions through his music. Ray Charles has left us the enduring legacy of his genius, his music, and though gone from us physically the music of Ray Charles will live on forever.

IMPROVING ACCESS TO ASSISTIVE TECHNOLOGY FOR INDIVIDUALS WITH DISABILITIES ACT OF 2004

SPEECH OF

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 2004

Mr. LANGEVIN. Madam Speaker, I rise to commend my colleagues on the passage of H.R. 4278. This bill reauthorizes and makes permanent the Assistive Technology Act, which plays an instrumental role in promoting awareness of and access to services and devices that allow individuals with disabilities to lead independent lives, to work, to participate fully in community and school, and to make informed choices in all aspects of their lives.

This legislation, which passed unanimously under suspension yesterday, is a result of a bipartisan commitment to improving the lives of people with disabilities. Members of Congress from both parties recognized the valuable role that the Tech Act plays in providing support to programs in all 50 states and worked together to ensure the continuation and vitality of the state grant programs. Most importantly, this bill will get technology into the hands of people who need it.

My own background and experience gives me a unique perspective on the value of assistive technology. Indeed, access to technology has made it possible for me to serve as a Member of the United States Congress. Through my own experience and opportunities to interact with others in the disability community, I am keenly aware that access can make the difference between a life on public assistance and a productive, fulfilling career. With the unemployment rate within the disability community at a staggering 70 percent, we must support and promote the programs that are making a difference. State assistive technology programs have proven to be instrumental in getting people back into their communities.

When it was first enacted, in 1988, the Tech Act contained sunset provisions which would

have allowed funding for state programs to expire. Since that time, it has become obvious that the world of technology is continuously changing. Policy makers have learned over the last decade that responsible technology-related legislation must be more enduring. I am so proud to have been a part of this House-passed legislation, which ends sunsets and provides a permanent funding stream for these state programs.

I look forward to our continued work together to develop new ways to break down barriers to technology for all people with disabilities.

JAKE WILLHITE'S 10TH ANNUAL FLAG DAY PARTY

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the 10th annual Flag Day Party hosted each year by Jake Willhite of Chesterfield, Missouri.

Jake has been celebrating and honoring Flag Day with his family and friends for most of his life now and has inspired many of us to have a greater appreciation for our flag and its meaning. It is significant to note that someone so young can teach us so much.

Jake's parents, Bill and Shannon Willhite send out an annual invitation to Jake's party. This is what this year's invitation had to say: Jake's 10th annual Flag Day Party

''When Jacob's party began in June of 1995, he carried his flag everywhere. His patriotism was alive. Carrying the flag was Jacob's own way of showing us all that June 14th was its day. Since that first party, friends and family have come through when it's time to celebrate the red, white and blue. So come join us again. The years go by fast. We're ready to celebrate with Jacob's 10th Annual blast.''

According to Bill and Shannon, a great time was had by all of Jake's friends and family members including his sisters Samantha and Kennedy.

Jake, we want to thank you for reminding us how important our flag is.

CONGRESSIONAL RECORD STATEMENT ON CALPINE'S 20TH ANNIVERSARY

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Ms. LOFGREN. Mr. Speaker, today, I would like to recognize and congratulate one of my hometown companies for achieving a milestone this month—the celebration of their 20th Anniversary. An energy industry entrepreneur, Pete Cartwright, along with four associates, founded Calpine Corporation, headquartered in San Jose, CA, 20 years ago. They began their business of building power plants and producing electricity by buying one megawatt of power in a geothermal power plant in Northern California. Today, Calpine has 30,000 megawatts of power plants in operation and construction (enough to power approximately 30 million homes), they operate the largest fleet of modern, environmentally sensitive gas-fired power plants in North America, and they oversee significant natural gas production, and are the world's largest producer of renewable geothermal energy.

While this is a remarkable achievement in an industry that has seen more than its share of turmoil and change over the last 20 years, Calpine has created a successful business while, at the same time, serving as the leading industry steward of the environment, acting as a good corporate citizen, and maintaining a rewarding workplace for its employees.

Let me give you some recent examples of the recognition Calpine has received for these achievements:

Fortune Magazine named Calpine ''America's Most Respected Energy Company'' in 2004.

The American Lung Associations of the Bay Area selected Calpine to receive its 2004 Clean Air Award for Technology Development at its Geysers geothermal operation.

The U.S. Environmental Protection Agency and the U.S. Department of Energy awarded Calpine a 2003 ENERGY STAR Combined Heat and Power Award recognizing its Deer Park Energy Center for ''leadership in energy supply'' for using 30 percent less fuel than onsite thermal generation and purchased electricity.

The California Department of Conservation recognized Calpine's Geysers geothermal operations with an award for environmental stewardship, safety, infrastructure maintenance and resource conservation for the last two years.

The New York League of Conservation Voters just presented Calpine and its Chairman, Pete Cartwright, with its Clean Air Champion's Award for their outstanding leadership on behalf of New York's environment.

The University of Colorado's Tim Wirth Chair on Environmental and Community Development selected Calpine to receive its Award for Sustainable Business for their leadership in producing electricity in an environmentally responsible manner.

Calpine Corporation has exhibited leadership in California on corporate responsibility by taking decisive action during the state's energy crisis to keep their power plants operating even in the face of financial loss due to the high cost of fuel. Despite the uncertainty about California's future design of its energy markets, Calpine has continued to invest in the state. Calpine has already invested $5 billion and employs over 1000 workers to operate 39 power plants in California and is committed to investing another $3 billion to meet the growing demand for power in the state.

Calpine has exhibited environmental leadership by adopting a unanimous board resolution committing the company to a low carbon future, by joining the California Climate Registry and the Silicon Valley Manufacturing Group's Voluntary Global Warming Initiative, by building only low-emitting gas-fired power plants using state-of-the-art pollution control equipment, and by being the world's leading producer of renewable geothermal energy and the country's largest producer of cogenerated power.

Finally, Calpine is a leader in community service with a long history of partnering with community organizations, as well as funding community and educational programs that seek to change lives and strengthen the fabric of our society. Calpine also supports the generous volunteerism of its employees and encourages them to take active roles in their communities making them even better places to live and work.

I want to congratulate Calpine Corporation and its Chairman, Pete Cartwright, for the wisdom of choosing California as its major place of business, for continuing to invest in California, for showing leadership in the areas of the environment, corporate responsibility, and community service and for successfully reaching this milestone anniversary.

RECOGNIZING MAJOR GENERAL LAWRENCE R. ADAIR, UPON HIS RETIREMENT FROM THE U.S. ARMY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mrs. LOWEY. Mr. Speaker, I rise today to recognize a great patriot, soldier and fellow New Yorker, Major General Lawrence Richard Adair. General Adair is retiring after 30 years of distinguished service in the United States Army.

After graduating from the U.S. Military Academy, the Larchmont, NY, resident entered the Army in 1974, with a commission as a second lieutenant in the Field Artillery.

He held numerous commands and staff assignments in both the Federal Republic of Germany and the continental United States, and led soldiers into combat as a Battalion Commander during Operation Desert Shield/Desert Storm. Following successful tours as the Commander, Division Artillery, 2nd Armored Division, Fort Hood, Texas; Deputy Commanding General/Assistant Commandant, United States Army Field Artillery Center and School, Fort Sill, Oklahoma; and Commanding General, United States Total Army Personnel Command, Alexandria, Virginia, Major General Adair assumed the role of Assistant Deputy Chief of Staff, Army G–1. This critical part of the Army works on a wide variety of personnel issues affecting the Army's functioning.

In this capacity, his dynamic human resource vision has been absolutely critical in transforming the Army for its continuing global war on terrorism. For the past two years, he has served as the principal advisor to the Army G–1 and the Assistant Secretary of the Army (Manpower and Reserve Affairs) in managing our most important resource—people. Major General Adair's influence has been far-reaching and strategic. One of the greatest challenges the Army G–1 has faced in recent memory has been to restructure the Army to better support the war on terrorism. A common sense approach to this difficult and complex human resource challenge was his hallmark. He provided leadership and guidance in efficiently activating a new system that supports commanders in the field with units rather than individual replacements. Major General Adair has also worked extensively with officials throughout the Army in order to determine the best way to take care of soldiers and their families. One example is the implementation of the Rest and Recuperation Program in support of Operations Enduring and Iraqi Freedom. Additionally, deployed soldiers have

received increased incentive pay due in part to his determined efforts to ensure that their sacrifices and contributions are appropriately recognized.

Major General Adair is married to the former Maria D. Davis of Scranton, PA. They have two children, Ted, a Captain in the Army who is currently serving in Iraq with the 1st Cavalry Division, and John, a ninth grader.

Mr. Speaker, I ask my colleagues to join me in thanking General Adair for the leadership he has provided, for the care and concern he has demonstrated for our soldiers and their families, and for his dedicated and honorable service to our Nation and its Army. As he prepares for life after the Army, we wish him, his wife Maria, and his family Godspeed and the very best in the future.

RECOGNIZING THE VISIT OF MEXICAN PRESIDENT VICENTE FOX TO MICHIGAN

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. ROGERS of Michigan. Mr. Speaker, it is with special privilege that I rise today to honor Mexico's President, Vicente Fox, on the occasion of his visit to Michigan and to thank him for his continued efforts to strengthen the bilateral relationship between our great countries.

President Fox's visit is a sign of the strong cultural and economic connection shared with America. Today, Michigan is called home by many Hispanics of Mexican descent. The result is a significant cultural bond that connects Mexico and Michigan. Mexico is considered a partner, neighbor, and a friend to Michigan. President Fox's commitment to strengthening these ties is deep and far reaching. His dedication to upholding the integrity and principles of Mexico, and his continued work on behalf of the people in Michigan, are testaments to his strength of character.

President Fox's visit to Michigan's state capitol will undoubtedly further the state's relationship with Mexico and continued economic integration. Mexico can be considered more than a friend, rather a partner in building a more democratically prosperous state. His visit to the state of Michigan is just a glimpse of many good things to come; Mexico and Michigan will continue to work together to enhance our common prosperity.

Mr. Speaker, President Fox is a Mexican patriot with a great vision for his country. His vision extends to the people of Michigan so that they may share equally in prosperity. He has given selflessly of himself to better his country, and has shown equal enthusiasm in bettering his relationship with the great state of Michigan. President Fox has truly earned the respect and admiration of all those who know him.

CONGRATULATING ST. PATRICK'S SCHOOL ON THEIR 40TH ANNIVERSARY

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. HENSARLING. Mr. Speaker, today, I would like to extend my heartfelt congratulations to St. Patrick's School in Dallas, Texas, on the occasion of their 40th anniversary.

Education is one of the most important issues facing the future of our great nation. If America is to continue to be the leader of the modern world, we must offer a solid educational foundation for our citizens. To succeed in school and life, every student needs a basic set of skills. They need to listen attentively, speak persuasively, read with understanding, and write with command.

Over the past 40 years, St. Patrick's School has maintained a commitment to educational excellence, striving to provide a stimulating, well-rounded Catholic education by teaching their students to embrace the message of the gospel, pursue knowledge and make a difference in the world.

On March 17, 1963, Bishop Thomas K. Gorman issued a decree to establish St. Patrick's Parish north of White Rock Lake. Construction on the school began soon after and when it opened in September of 1964, the school was staffed by three Sisters of Notre Dame of the Dallas province and lay teachers for 326 students. Since then, the school has grown, expanding its buildings and facilities to help accommodate and educate more than 500 students.

Accredited by the Texas Catholic Conference of the Texas Private School Accreditation Commission, St. Patrick's School is an institution dedicated to offering students the tools they need to become genuine leaders in the community.

As the Congressman for the Fifth Congressional District of Texas, I am very proud to represent St. Patrick's Parish. I would like to offer my congratulations to their administrators, alumni, students, and parents on this momentous occasion and best wishes for their continued success.

Daily Digest

HIGHLIGHTS

The House and Senate met in a Joint Meeting to receive His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan.

The House passed H.R. 4513, Renewable Energy Project Siting Improvement Act of 2004.

The House passed H.R. 4503, Energy Policy Act of 2004.

Senate

Chamber Action

Routine Proceedings, pages S6749–S6821

Measures Introduced: Five bills were introduced, as follows: S. 2518–2522. **Pages S6803–04**

Measures Reported: S.J. Res. 39, approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003. **Page S6803**

Measures Passed:

Flood Insurance Reform Act: Senate passed S. 2238, to amend the National Flood Insurance Act of 1968 to reduce loses to properties for which repetitive flood insurance claim payments have been made, after agreeing to the committee amendments, and the following amendment proposed thereto: **Pages S6809–21**

Warner (for Shelby) Amendment No. 3451, to make technical and conforming amendments. **Pages S6815–16**

National Defense Authorization Act: Senate continued consideration of S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, taking action on the following amendments proposed thereto: **Pages S6751–90**

Adopted:

By 65 yeas to 33 nays (Vote No. 114), Smith/Kennedy Amendment No. 3183, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes. **Pages S6751, S6763–73, S6775**

Talent/Bond Amendment No. 3251, to express the sense of Congress on America's National World War I Museum. **Pages S6779–80**

Warner (for Collins) Amendment No. 3395, to encourage the Secretary of Defense to achieve maximum cost effective energy savings. **Pages S6785–89**

Levin (for Bingaman) Modified Amendment No. 3392, to clarify the duties and activities of the Vaccine Healthcare Centers Network. **Pages S6785–89**

Warner (for Grassley/Feinstein) Modified Amendment No. 3402, to express the sense of Congress that the elimination of the drug trade in Afghanistan should be a national security priority for the United States, and to require a report on related efforts. **Pages S6785–89**

Levin (for Bingaman) Modified Amendment No. 3346, to reduce barriers for Hispanic-serving institutions in defense contracts, defense research programs, and other minority-related defense programs. **Pages S6785–89**

Warner (for Graham (SC)) Modified Amendment No. 3326, to clarify the authorities of the Judge Advocates General. **Pages S6785–89**

Levin (for Hollings) Modified Amendment No. 3349, to modify the authority to convey land at Equipment and Storage Yard, Charleston, South Carolina. **Pages S6785–89**

Warner (for Inhofe/Chambliss) Modified Amendment No. 3385, to exempt procurements of certain services from the limitation regarding service charges imposed for defense procurements made through contracts of other agencies. **Pages S6785–89**

Rejected:

By 42 yeas to 55 nays (Vote No. 113), Kennedy Amendment No. 3263, to prohibit the use of funds for the support of new nuclear weapons development under the Stockpile Services Advanced Concepts Initiative or for the Robust Nuclear Earth Penetrator (RNEP). **Pages S6751–63**

Pending:

Reid (for Leahy) Amendment No. 3292, to amend title 18, United States Code, to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts. **Page S6751**

Dodd Further Modified Amendment No. 3313, to prohibit the use of contractors for certain Department of Defense activities and to establish limitations on the transfer of custody of prisoners of the Department of Defense. **Pages S6751, S6777**

Reed Amendment No. 3352, to increase the end strength for active duty personnel of the Army for fiscal year 2005 by 20,000 to 502,400. **Pages S6780–84**

Warner Amendment No. 3450 (to Amendment No. 3352), to provide for funding the increased number of Army active-duty personnel out of fiscal year 2005 supplemental funding. **Pages S6780–84**

Durbin Amendment No. 3386, to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment. **Pages S6784–85**

A unanimous-consent agreement was reached providing for further consideration of the bill on Wednesday, June 16, 2004; that there be 30 minutes of debate equally divided on Dodd amendment No. 3313 (listed above) and the Senate then proceed to a vote in relation to the amendment, with no amendments in order to the amendment prior to the vote; further, that Senator Warner, or his designee, be recognized to offer the next first degree amendment. **Page S6789**

During consideration of this measure today, Senate also took the following action:

Warner (for Domenici) Amendment No. 3167, to require a report on the availability of potential overland ballistic missile defense test ranges, previously agreed to on Monday, June 14, 2004, was modified by unanimous consent. **Page S6785**

Message from the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a notification of the President's intent to enter into a free trade agreement with the Government of Bahrain; which was referred to the Committee on Finance. (PM–86) **Page S6801**

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 98 yeas (Vote No. Ex. 115), Virginia E. Hopkins, of Alabama, to be United States District Judge for the Northern District of Alabama. **Pages S6773–75, S6775–76, S6821**

By unanimous vote of 98 yeas (Vote No. 116), Ricardo S. Martinez, of Washington, to be United States District Judge for the Western District of Washington. **Pages S6773–75, S6776–77, S6821**

By unanimous vote of 98 yeas (Vote No. Ex. 117), Gene E. K. Pratter, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania. **Pages S6773–75, S6777, S6821**

Nominations Received: Senate received the following nominations:

1 Air Force nomination in the rank of general.

6 Army nominations in the rank of general.

3 Marine Corps nominations in the rank of general.

8 Navy nominations in the rank of admiral. **Page S6821**

Messages From the House: **Pages S6801–02**

Measures Referred: **Page S6802**

Measures Placed on Calendar: **Page S6802**

Executive Communications: **Pages S6802–03**

Additional Cosponsors: **Pages S6804–05**

Statements on Introduced Bills/Resolutions: **Pages S6805–07**

Additional Statements: **Page S6801**

Amendments Submitted: **Pages S6807–08**

Notices of Hearings/Meetings: **Page S6808**

Authority for Committees to Meet: **Pages S6808–09**

Privilege of the Floor: **Page S6809**

Record Votes: Five record votes were taken today. (Total—117) **Pages S6763, S6775, S6776, S6776–77, S6777**

Adjournment: Senate convened at 10:30 a.m., and adjourned at 7:05 p.m., until 9 a.m., on Wednesday,

June 16, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S6821.)

Committee Meetings

(Committees not listed did not meet)

NOMINATION

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the nomination of Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System, after the nominee testified and answered questions in his own behalf.

PIPELINE SAFETY

Committee on Commerce, Science, and Transportation: Committee concluded an oversight hearing to examine long term prospects for improved safety and reliability of the Nation's pipeline infrastructure, focusing on responses to mandates set forth in the Pipeline Safety Improvement Act of 2002 including specific implementation and results, after receiving testimony from Senator Murray; Samuel G. Bonasso, Deputy Administrator, Research and Special Programs Administration, Stacey Gerard, Associate Administrator, Office of Pipeline Safety, and Kenneth Mead, Inspector General, all of the Department of Transportation; Katherine Siggerud, Director, Physical Infrastructure Issues, General Accounting Office; James L. Connaughton, Council on Environmental Quality, Washington, D.C.; Marc Spitzer, Arizona Corporation Commission, Phoenix; Lois N. Epstein, Cook Inlet Keeper, Anchorage, Alaska; Barry Pearl, TEPPCO Partners, L.P., Houston, Texas, on behalf of the Association Oil Pipe Lines and the American Petroleum Institute; Earl Fischer, Atmos Energy Corporation, Dallas, Texas, on behalf of the American Gas Association and the American Public Gas Association; and Robert T. Howard, Gas Transmission Northwest Corporation, Portland, Oregon, on behalf of the Interstate Natural Gas Association of America.

ENERGY SUPPLY

Committee on Energy and Natural Resources: Committee concluded a hearing to examine crude oil supply, gasoline demands and the effects on prices, focusing on the causes and solution to the current fuel situation, including concerns over ability of petroleum markets to rebalance, boutique diesel fuels, proposed renewable fuel mandate, refinery capacity, after receiving testimony from Guy F. Caruso, Administrator, Energy Information Administration, Department of Energy; Red Cavaney, American Petroleum Institute, and Dave Berry, Swift Transportation Company, on behalf of the American Trucking Associations, both of Washington, D.C.; and John P. Kilduff, Fimat USA Inc., New York, New York.

FREE TRADE

Committee on Finance: Committee concluded a hearing to examine U.S.-Australia and U.S.-Morocco Free Trade Agreements, focusing on economic, social, and political challenges facing the region and U.S. interests in the Middle East, after receiving testimony from Peter F. Allgeier, and Josette Sheeran Shiner, each a Deputy United States Trade Representative; Allen Johnson, Chief Agricultural Negotiator, Office of the U.S. Trade Representative; Harold McGraw III, The McGraw-Hill Companies, New York, New York, on behalf of the Business Roundtable; Jon Kneen, Al-Jon, Inc., Ottumwa, Iowa, on behalf of the National Association of Manufacturers; Lynn Cornwell, Montana Stockgrowers Association, Glasgow; Jeffrey W. Ruffner, MSE Technology Applications, Inc., Butte, Montana; John Schulman, Warner Brothers Entertainment, Burbank, California, on behalf of the Entertainment Industry Coalition for Free Trade; David G. Mengebier, CMS Energy Corporation, Jackson, Michigan, on behalf of the U.S.- Morocco FTA Coalition; Ron Heck, Perry, Iowa, on behalf of the American Soybean Association; and Lochiel Edwards, Montana Grain Growers Association, Big Sandy, on behalf of the Wheat Export Trade Education Committee, the National Association of Wheat Growers, and U.S. Wheat Associates.

BUSINESS MEETING

Committee on Finance: Committee ordered favorably reported S.J. Res. 39, approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

SUDAN

Committee on Foreign Relations: Committee concluded a hearing to examine the current situation in Sudan, focusing on genocide, violence and ethnic cleansing in Darfur, Sudan, humanitarian assistance and development of the infrastructure in southern Sudan, and the potential for famine, after receiving testimony from Charles R. Snyder, Acting Assistant Secretary

of State for African Affairs; Roger P. Winter, Assistant Administrator for Democracy, Conflict and Humanitarian Assistance, U.S. Agency for International Development; John Prendergast, Special Advisor to the President, International Crisis Group; and Julie Flint, Human Rights Watch, London, United Kingdom.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of Joseph D. Stafford III, of Florida, to be Ambassador to the Republic of The Gambia, Lewis W. Lucke, of Texas, to be Ambassador to the Kingdom of Swaziland, who was introduced by Senators Hutchison and Cornyn, and R. Niels Marquardt, of California, to be Ambassador to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador to the Republic of Equatorial Guinea, after each nominee testified and answered questions in their own behalf.

TERRORISM FINANCING

Committee on Governmental Affairs: Committee concluded a hearing to examine current efforts to combat terrorism financing, focusing on U.S.-Saudi relations, including the Saudi regime strengthening its efforts to reduce the flow of funds from within Saudi Arabia to terrorists, after receiving testimony from Lee S. Wolosky, Boies, Schiller, and Flexner, LLP, Washington, D.C., and Mallory Factor, Mallory Factor, Inc., New York, New York, both on behalf of the Independent Task Force on Terrorist Financing, Council on Foreign Relations; and David D. Aufhauser, Williams and Connolly, LLP, Washington, D.C., former General Counsel, Department of the Treasury.

ADOLESCENT TREATMENT SERVICES

Committee on Health, Education, Labor, and Pensions: Subcommittee on Substance Abuse, and Mental Health Services concluded a hearing to examine substance abuse prevention and treatment services for adolescents, focusing on the effects of binge drinking, and monthly cigarette, beer, and marijuana usage, and the development of the Juvenile Treatment Network, after receiving testimony from Charles G. Curie, Administrator, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services; Sandra A. Brown, University of California Department of Psychology, San Diego; Roger P. Weissberg, University of Illinois at Chicago; Rhonda Ramsey-Molina, Coalition for a Drug Free Greater Cincinnati, Cincinnati, Ohio; Ronald P. Anton, Day One, Cape Elizabeth, Maine, on behalf of the Maine Association of Substance Abuse Programs, and the State Associations of Addiction Services; and Kris Shipley, Pasadena, Maryland, on behalf of the Therapeutic Communities of America.

TRIBAL PARITY ACT

Committee on Indian Affairs: Committee concluded a hearing to examine S. 1530, to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River, after receiving testimony from Senator Daschle; Ross Mooney, Acting Deputy Director of Trust Services, Bureau of Indian Affairs, Department of the Interior; Michael J. Jandreau, Lower Brule Sioux Tribe, Lower Brule, South Dakota; Duane Big Eagle, Sr., Crow Creek Sioux Tribe, Fort Thompson, South Dakota; and Michael L. Lawson, Morgan, Angel and Associates, Washington, D.C.

BIOMETRIC PASSPORTS

Committee on the Judiciary: Committee concluded a hearing to examine S. 2324, to extend the deadline on the use of technology standards for the passports of visa waiver participants, focusing on appropriate security checks, freezing the identity of travelers, matching traveler identities and documents, documenting arrivals and departures, and determining overstays, after receiving testimony from Senator Cantwell; Asa Hutchinson, Under Secretary of Homeland Secretary for Border and Transportation Security; and Maura Harty, Assistant Secretary of State for Consular Affairs.

BUSINESS MEETING

Select Committee on Intelligence: Committee met in closed session to consider pending intelligence matters.

Committee recessed subject to the call.

SOCIAL SECURITY REFORM

Special Committee on Aging: Committee concluded a hearing to examine certain measures to strengthen social security, focusing on what personal retirement accounts do for low-income workers, including reform proposals that could have a variety of effects on the distribution of benefits and payroll taxes, after

receiving testimony from David M. Walker, Comptroller General of the United States, General Accounting Office; Jeffrey R. Brown, University of Illinois at Urbana-Champaign College of Business, Champaign; Peter J. Ferrara, Institute for Policy Innovation, and the Club for Growth, Jeff Lemieux, Centrists.Org, and Christian E. Weller, Center for American Progress, all of Washington, D.C.

House of Representatives

Chamber Action

Measures Introduced: 15 public bills, H.R. 4569–4583; and 3 resolutions, H. Con. Res. 449–450, and H. Res. 676, were introduced.

Pages H4170–71

Additional Cosponsors: **Page H4171**

Reports Filed: Reports were filed today as follows:

H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005 (H. Rept. 108–541);

H.R. 4568, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005 (H. Rept. 108–542);

Report on the Suballocation on the Budget Allocations for Fiscal Year 2005 (H. Rept. 108–543);

H. Res. 674, providing for consideration of H.R. 4568, making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 2005 (H.Rept. 108–544); and

H. Res. 675, providing for consideration of H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005 (H. Rept. 108–545). **Page H4170**

Speaker: Read a letter from the Speaker wherein he appointed Representative Kirk to act as Speaker pro tempore for today. **Page H3965**

Recess: The House recessed at 8:34 a.m. for the purpose of receiving His Excellency Hamid Karzai and reconvened at 10:30 a.m.; and agreed that the proceedings had during the Joint Meeting be printed in the Record. **Page H3965**

Joint Meeting to receive His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan: The House and Senate met in a Joint Meeting to receive His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan. He was escorted into the House Chamber by a Committee comprised of Representatives DeLay, Blunt, Pryce (OH), Cox, Goss, Rohrabacher, Pelosi, Hoyer, Menendez, Harman, Skelton, and Ackerman and Senators Frist, McConnell, Stevens, Santorum, Hutchison, Kyl, Warner, Daschle, Reid, Boxer, and Levin. **Pages H3965–67**

Renewable Energy Project Siting Improvement Act of 2004: The House passed H.R. 4513, to provide that in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 with respect to any action authorizing a renewable energy project, no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative, by a yea-and-nay vote of 229 yeas to 186 nays, Roll No. 242. **Pages H3981–90, H4132–33**

Agreed to the Pombo amendment printed in part A of H. Rept. 108–540, that clarifies that the environmental review processes in the bill do not apply to oil and gas leasing activities. **Page H3990**

H. Res. 672, the rule providing for consideration of the bill was agreed to by a recorded vote of 226 ayes to 193 noes, Roll No. 239, after agreeing to order the previous question by a yea-and-nay vote of 221 yeas to 198 nays, Roll No. 238.

Pages H3968–73, H3980–81

Energy Policy Act of 2004: The House passed H.R. 4503, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, by a yea-and-nay vote of 244 yeas to 178 nays, Roll No. 241. **Pages H3990–H4132**

Rejected the Dingell motion to recommit the bill to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with an amendment by a yea-and-nay vote of 192 yeas to 230 nays, Roll No. 240.

Pages H4126–32

H. Res. 671, the rule providing for consideration of the bill was agreed to by a recorded vote of 225 ayes to 193 noes, Roll No. 237, after agreeing to

order the previous question by a yea-and-nay vote of 218 yeas to 197 nays, Roll No. 236. **Pages H3973–80**

Suspensions—Proceedings Postponed: The House began consideration of the following measure under suspension of the rules. Further proceedings were postponed until Wednesday, June 16:

Gasoline Price Reduction Act of 2004: H.R. 4545, to amend the Clean Air Act to reduce the proliferation of boutique fuels. **Pages H4133–39**

Presidential Message: Read a message from the President wherein he notified Congress of his intent to enter into a Free Trade Agreement with the Government of Bahrain—referred to the Committee on Ways & Means and ordered printed (H. Doc. 108–193). **Page H4139**

Amendments: Amendments ordered printed pursuant to the rule appear on pages H4171–73.

Quorum Calls—Votes: Five yea-and-nay votes and two recorded votes developed during the proceedings of today and appear on pages H3979, H3979–80, H3980, H3980–81, H4131–32, H4132, and H4133. There were no quorum calls.

Adjournment: The House met at 8:30 a.m. and adjourned at 9:12 p.m.

Committee Meetings

REVIEW FARM SECURITY AND RURAL INVESTMENT ACT IMPLEMENTATION OF CONSERVATION TITLE

Committee on Agriculture: Subcommittee on Conservation, Credit, Rural Development, and Research held a hearing to review Implementation of the Conservation Title of the Farm Security and Rural Investment Act of 2002. Testimony was heard from the following officials of the USDA: James R. Little, Administrator, Farm Service Agency; and Bruce I. Knight, Chief, Natural Resources Conservation Service; and public witnesses.

COMMERCE, JUSTICE, STATE, JUDICIARY AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies approved for full Committee action the Commerce, Justice, State, Judiciary and Related Agencies appropriations for fiscal year 2005.

MILITARY CONSTRUCTION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Military Construction held a hearing on Navy Budget Request. Testimony was heard from the following officials of the Department of the Navy: ADM Vern Clerk, USN, Chief, Naval Operations; H.T. Johnson, Assistant Secretary, Installations and Environment; and GEN William Nyland, USMC, Assistant Commandant, U.S. Marine Corps.

U.S. TROOP WITHDRAWALS FROM KOREA STRATEGIC IMPLICATIONS

Committee on Armed Services: Held a hearing on the strategic implications of U.S. troop withdrawals from Korea. Testimony was heard from public witnesses.

VOCATIONAL AND TECHNICAL EDUCATION FOR THE FUTURE ACT

Committee on Education and the Workforce: Subcommittee on Education Reform held a hearing on H.R. 4496, Vocational and Technical Education for the Future Act. Testimony was heard from Katherine Oliver, Assistant State Superintendent, Career, Technology and Adult Learning, Department of Education, State of Maryland; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Energy and Commerce: Subcommittee on Health approved for full Committee action the following bills: H.R. 2023, amended, Asthmatic Schoolchildren's Treatment and Health Management Act of 2003; H.R. 4555, Mammography Quality Standards Reauthorization Act of 2004; and S. 741, Minor Use and Minor Species Animal Health Act of 2003.

JUNK FAX PREVENTION ACT

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held hearing on the Junk Fax Prevention Act of 2004. Testimony was heard from K. Dane Snowden, Chief, Consumer and Governmental Affairs Bureau, FCC; and public witnesses.

STOCK OPTION ACCOUNTING REFORM ACT

Committee on Financial Services: Ordered reported, as amended, H.R. 3574, Stock Option Accounting Reform Act.

UNPRECEDENTED CHALLENGES: CONTRACTING AND THE REBUILDING OF IRAQ

Committee on Government Reform: Held a hearing entitled ''Unprecedented Challenges: Contracting and the Rebuilding of Iraq.'' Testimony was heard from David M. Walker, Comptroller General, GAO; and the following officials of the Department of Defense: Lawrence Lanzilotta, Principle Deputy and Acting Under Secretary (Comptroller); Deirde Lee, Director, Defense Procurement and Acquisition Policy; Tina Basllard, Deputy Assistant Secretary, Army (Policy and Procurement); William H. Reed, Director, Defense Contract Audit Agency; GEN Paul Kern, USA, Commanding General, U.S. Army Materiel Command; and BG Robert Crear, USA, Commander, Southwestern Division, U.S. Army Corps of Engineers.

IRAQ: WINNING HEARTS AND MINDS

Committee on Government Reform: Subcommittee on National Security, Emerging Threats and International Relations held a hearing on Iraq: Winning Hearts and Minds. Testimony was heard from the following officials from the Department of State: Ambassador Ronald L. Schlicher, Deputy Assistant Secretary, Bureau of Near Eastern Asia/Iraq; and Gordon West, Senior Deputy Assistant Administrator, Bureau for Asia and the Near East, U.S. Agency for International Development; the following officials of the Department of Defense: Peter Rodman, Assistant Secretary, International Security Affairs; LTG Walter L. Sharp, USA, Director, Strategic Plans and Policy, Joint Chiefs of Staff; Rend al-Rahim Francke, Iraqi Representative to the United States; and public witnesses.

UZBEKISTAN: THE KEY TO SUCCESS IN CENTRAL ASIA?

Committee on International Relations: Subcommittee on the Middle East and Central Asia held a hearing on Uzbekistan: The Key to Success in Central Asia?'' Testimony was heard from the following officials of the Department of State: Michael Kozak, Principal Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor; and B. Lynn Pascoe, Deputy Assistant Secretary, Bureau of European and Eurasian Affairs; Mira Ricardel, Acting Assistant Secretary, International Security Policy, Department of Defense; and public witnesses.

LAW ENFORCEMENT OFFICERS SAFETY ACT

Committee on the Judiciary: Subcommittee on Crime, Terrorism, and Homeland Security approved for full Committee action H.R. 218, Law Enforcement Officers Safety Act of 2003.

Prior to this action, the Subcommittee held a hearing on this legislation. Testimony was heard from Albert C. Eisenberg, Delegate, House of Delegates, State of Virginia; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held a hearing on the following bills: H.R. 1630, Petrified Forest National Park Expansion Act of 2003; H.R. 2129, Taunton, Massachusetts Special Resources Study Act; H.R. 3954, Rancho El Cajon Boundary Reconciliation Act; H.R. 4481, To amend Public Law 86–434 establishing Wilson's Creek National Battlefield in the State of Missouri to expand the boundaries of the park; and S. 1576, Harpers Ferry National Historical Park Boundary Revision Act of 2003. Testimony was heard from Representatives Renzi, Frank of Massachusetts, Hunter, Blunt and Capito; the following officials of the Department of the Interior: Paul Hoffman, Deputy Assistant Secretary, Fish, Wildlife and Parks; and John Hughes, Deputy Director, Bureau of Land Management; and public witnesses.

INTERIOR APPROPRIATIONS FISCAL YEAR 2005

Committee on Rules: Granted, by voice vote, an open rule providing 1 hour of general debate on H.R. 4568, making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 2005, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. Under the rules of the House the bill shall be read for amendment by paragraph. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule authorizes the Chair to accord priority in recognition to Members who have-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. Testimony was

heard from Representatives Taylor of North Carolina; Dicks and Norton.

HOMELAND SECURITY APPROPRIATIONS FISCAL YEAR 2005

Committee on Rules: Granted, by a vote of 7 to 4, an open rule providing 1 hour of general debate on H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. Under the rules of the House the bill shall be read for amendment by paragraph. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Rogers, Manzullo, Obey, Sabo, DeLauro and Turner of Texas.

MISCELLANEOUS MEASURES

Committee on Science: Subcommittee on Energy approved for full Committee action the following bills: H.R. 3890, To reauthorize the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988; and H.R. 4516, Department of Energy High-End Computing Revitalization Act of 2004.

AIR TRAFFIC CONTROLLER WORKFORCE STATUS

Committee on Transportation and Infrastructure: Subcommittee on Aviation held an oversight hearing on The Status of the Air Traffic Controller Workforce. Testimony was heard from the following officials of the Department of Transportation: Marion Blakey, Administrator, FAA; and Alexis Stefani, Deputy Assistant Inspector General; JayEtta Z. Hecker, Director, Physical Infrastructure Team, GAO; and public witnesses.

TAX SIMPLIFICATION

Committee on Ways and Means: Subcommittee on Oversight held a hearing on Tax Simplification. Testimony was heard from the following former Commissioners of IRS, Department of the Treasury; Mortimer M. Caplin; Sheldon S. Cohen; Don C. Alexander; and Fred T. Goldberg; and public witnesses.

ENHANCING SOCIAL SECURITY NUMBER PRIVACY

Committee on Ways and Means: Subcommittee on Social Security held a hearing on Enhancing Social Security Number Privacy. Testimony was heard from J. Howard Beales III, Director, Bureau of Consumer Protection, FTC; Patrick P. O'Carroll, Acting Inspector General, SSA; Barbara Bovbjerg, Director, Education, Workforce, and Income Security, GAO; Lawrence E. Maxwell, Assistant Chief Inspector, Investigations and Security, United States Postal Inspection Service, United States Postal Service; and public witnesses.

BORDER SECURITY

Select Committee on Homeland Security: Subcommittee on Infrastructure and Border Security held a hearing entitled "Protecting the Homeland: Building a Layered and Coordinated Approach to Border Security." Testimony was heard from the following officials of the Department of Homeland Security: Victor Cerda, Special Advisor to Assistant Secretary, Bureau of Immigration and Customs Enforcement; and Chief David Aguilar, Tuscan Sector Border Patrol Chief, Bureau of Customs and Border Protection; and public witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D557)*

S. 2092, to address the participation of Taiwan in the World Health Organization. Signed on June 14, 2004. (Public Law 108–235)

COMMITTEE MEETINGS FOR WEDNESDAY, JUNE 16, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Homeland Security, business meeting to mark up proposed legislation making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, 10 a.m., SD–124.

Committee on Commerce, Science, and Transportation: to hold hearings to examine S. 2281, to provide a clear and

unambiguous structure for the jurisdictional and regulatory treatment for the offering or provision of voice-over-Internet-protocol applications, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: business meeting to consider pending calendar business, 11:30 a.m., SD–366.

Committee on Finance: to hold hearings to examine measures to strengthen regulations and oversight to better ensure agriculture financing integrity, 11 a.m., SD–215.

Committee on Foreign Relations: to hold hearings to examine the nominations of Charles P. Ries, of the District of Columbia, to be Ambassador to Greece, Tom C. Korologos, of the District of Columbia, to be Ambassador to Belgium, and John Marshall Evans, of the District of Columbia, to be Ambassador to the Republic of Armenia, 2 p.m., SD–419.

Committee on Indian Affairs: business meeting to consider S.J. Res. 37, to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian Tribes and offer an apology to all Native Peoples on behalf of the United States; S. 297, to provide reforms and resources to the Bureau of Indian Affairs to improve the Federal acknowledgement process; S. 1529, to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees; S. 1696, to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes; S. 1715, to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes; S. 2172, to make technical amendments to the provisions of the Indian Self Determination and Education Assistance Act relating to contract support costs; and S. 2277, to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation, and motion to authorize the chairman to issue subpoenas in regards to tribal lobbying matters; to be followed by an oversight hearing to examine the No Child Left Behind Act (Public Law 107–110), 10 a.m., SR–485.

Full Committee, to hold hearings to examine S. 1996, to enhance and provide to the Oglada Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program, 2 p.m., SR–485.

Committee on the Judiciary: to hold hearings to examine the nominations of Richard A. Griffin, of Michigan, and David W. McKeague, of Michigan, each to be a United States Circuit Judge for the Sixth Circuit, and Virginia Maria Hernandez Covington, to be United States District Judge for the Middle District of Florida, 10 a.m., SD–226.

House

Committee on Agriculture, hearing to review Iraqi Agriculture: From Oil for Food to the Future of Iraqi Production Agriculture and Trade, 10 a.m., 1300 Longworth.

Committee on Appropriations, to mark up the following appropriations for fiscal year 2005: Defense and Energy and Water Development, 10 a.m., 2359 Rayburn.

Subcommittee on Legislative, to mark up the Legislative appropriations for fiscal year 2005, following full Committee markup, H–144 Capitol.

Subcommittee on Military Construction, on Army Budget Request, 2 p.m., B–300 Rayburn.

Committee on Armed Services, hearing on the status of U.S. forces in Iraq after June 30, 2004, 10 a.m., and a hearing on the report of the United States-China Economic and Security Review Commission, 2 p.m., 2118 Rayburn.

Committee on Education and the Workforce, hearing entitled ''H.R. 4283, College Access and Opportunity Act: Are Students at Proprietary Institutions Treated Equitably under Current Law?'' 10:30 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, hearing entitled ''Parents Be Aware: Health Concerns about Dietary Supplements for Overweight Children,'' 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Housing and Community Opportunity, hearing on H.R. 4110, FHA Single Family Loan Limit Adjustment Act of 2004, 10 a.m., 2128 Rayburn.

Subcommittee on Oversight and Investigations, hearing entitled ''Oversight of the Department of the Treasury,'' 2 p.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Government Efficiency and Financial Management, oversight hearing entitled ''Private Sector Consultants and Federal Management: More than Balancing the Books,'' 2 p.m., 2247 Rayburn.

Subcommittee on Human Rights and Wellness, hearing entitled ''Living in Fear: The Continued Human Rights Abuses in Castro's Cuba,'' 10 a.m., 2154 Rayburn.

Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census, hearing entitled ''Locking Your Cyber Front Door—The Challenges Facing Home Users and Small Businesses,'' 2:30 p.m., 2154 Rayburn.

Committee on International Relations, Subcommittee on Europe, hearing on U.S. Initiatives at NATO's Istanbul Summit, 1:30 p.m., 2200 Rayburn.

Subcommittee on International Terrorism, Nonproliferation and Human Rights, hearing on The Visa Waiver Program and the Screening of Potential Terrorists, 10 a.m., 2172 Rayburn.

Subcommittee on the Middle East and Central Asia, hearing on The Future of U.S.-Egyptian Relations, 3 p.m., 2255 Rayburn.

Committee on the Judiciary, to mark up the following bills: H.R. 218, Law Enforcement Officers Safety Act of 2003; H.R. 3266, Faster and Smarter Funding for First Responders Act of 2003; H.R. 4518, Satellite Home Viewer Extension and Reauthorization Act of 2004; H.R. 338, Defense of Privacy Act; H.R. 3632, Anti-Counterfeiting Amendments of 2003; and H.R. 2934, Terrorist Penalties Enhancement Act of 2003, 10 a.m. 2141 Rayburn.

Committee on Resources, hearing on H.R. 3589, To create the Office of Chief Financial Officer of the Government of the Virgin Islands, 10 a.m., 1324 Longworth.

Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on The Importance of Fishery Data Collection Programs, 2 p.m., 1324 Longworth.

Subcommittee on Water and Power, to mark up the following bills: H.R. 3334, Riverside-Corona Feeder Authorization Act; H.R. 3597, To authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California; and H.R. 4045, To authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, 2 p.m., 1334 Longworth.

Committee on Rules, Subcommittee on Technology and the House, hearing to examine Rule X, the Organization of Committees, including its current legislative impact, arrangement, and effectiveness, 1 p.m., H–313 Capitol.

Committee on Science, to mark up the following bills: H.R. 3890, To reauthorize the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988; and H.R. 4516, Department of Energy High-End Computing Revitalization Act of 2004; H.R. 4218, High-Performance Computing Revitalization Act of 2004; and H.R. 3598, Manufacturing Technology Competitiveness Act of 2004, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Highways, Transit, and Pipelines, oversight hearing on Pipeline Safety and the Office of Pipeline Safety, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Benefits, hearing on the following: H.R. 4032, Veterans Fiduciary Act of 2004; and the Veterans Self-Employment Act of 2004, 11 a.m., 340 Cannon.

Committee on Ways and Means, hearing on the Implementation of the United States-Australia Free Trade Agreement, 10 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, executive, to mark up the Intelligence Authorization Act for Fiscal Year 2005, 3 p.m., H–405 Capitol.

Joint Meetings

Commission on Security and Cooperation in Europe: to hold hearings to examine the April 2003 Berlin Conference on Anti-Semitism and consider appropriate steps to following up on the conference, 10 a.m., 334 CHOB.

Next Meeting of the SENATE

9 a.m., Wednesday, June 16

Senate Chamber

Program for Wednesday: After the transaction of any morning business (not to extend beyond a period of 60 minutes), Senate will continue consideration of S. 2400, National Defense Authorization Act; following 30 minutes of debate equally divided on Dodd amendment No. 3313, Senate will then vote on or in relation to the amendment; following which, Senator Warner, or his designee, will then be recognized to offer the next first degree amendment.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, June 16

House Chamber

Program for Wednesday: Consideration of H.R. 4517, U.S. Refinery Revitilization Act of 2004 (closed rule, one hour of debate).

Consideration of H.R. 4529, Arctic Plain Domestic Energy Security and Abandoned Mine Lands Reclamation Reform Act of 2004 (modified closed rule, one hour of debate).

Consideration of H.R. 4567, Department of Homeland Security Appropriations for Fiscal Year 2005 (open rule, one hour of debate).

Consideration of H.R. 4568, Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 2005 (open rule, one hour of debate).

Extensions of Remarks as inserted in this issue

HOUSE

Allen, Thomas H., Maine, E1122
Berman, Howard L., Calif., E1126
Bonner, Jo, Ala., E1116, E1119
Castle, Michael N., Del., E1116, E1119
Clay, Wm. Lacy, Mo., E1121
Coble, Howard, N.C., E1115, E1117
Cooper, Jim, Tenn., E1130
Crowley, Joseph, N.Y., E1128
DeFazio, Peter A., Ore., E1128
Ehlers, Vernon J., Mich., E1131
Emanuel, Rahm, Ill., E1128, E1129
Farr, Sam, Calif., E1125
Flake, Jeff, Ariz., E1131
Gerlach, Jim, Pa., E1127
Gonzalez, Charles A., Tex., E1115, E1118, E1128, E1129
Graves, Sam, Mo., E1123
Gutierrez, Luis V., Ill., E1121
Hensarling, Jeb, Tex., E1133
Holt, Rush D., N.J., E1126
Houghton, Amo, N.Y., E1124
Israel, Steve, N.Y., E1116, E1119
Langevin, James R., R.I., E1131
Lofgren, Zoe, Calif., E1132
Lowey, Nita M., N.Y., E1132
McInnis, Scott, Colo., E1115, E1116, E1117, E1120, E1121, E1122, E1123, E1125, E1127
Majette, Denise L., Ga., E1122
Miller, Jeff, Fla., E1121
Moran, James P., Va., E1121
Ortiz, Solomon P., Tex., E1130
Owens, Major R., N.Y., E1129
Pitts, Joseph R., Pa., E1120
Pomeroy, Earl, N.D., E1122
Portman, Rob, Ohio, E1122
Rangel, Charles B., N.Y., E1127, E1129, E1131
Regula, Ralph, Ohio, E1116, E1118
Rogers, Mike, Ala., E1126, E1133
Serrano, José E., N.Y., E1115, E1117
Sherman, Brad, Calif., E1123
Shimkus, John, Ill., E1132
Shuster, Bill, Pa., E1125
Udall, Mark, Colo., E1123
Udall, Tom, N.M., E1124
Wexler, Robert, Fla., E1120
Woolsey, Lynn C., Calif., E1120

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