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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 26, 2002, at 2 p.m.

Senate

FRIDAY, FEBRUARY 15, 2002

The Senate met at 10 a.m., and was called to order by the Hon. HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Make a joyful noise to the Lord, all you lands! Serve the Lord with gladness; come before His presence with singing. Know that the Lord, He is God.—Psalm 100:1–3a.

Joyous God, we praise You for Your joy that is an outward expression of Your grace. When we experience Your giving, forgiving, unqualified love, the ecstasy of the joy of Heaven fills our hearts with exuberant joy. Your joy is so much greater than happiness, which is dependent on circumstances, the attitudes of others, and being free from problems. Thank You that Your joy flows within us with artesian force regardless of what is occurring to us or around us. Fill the wells of our souls with Your joy that nothing can dampen, so that we can express joy regardless of what happens. You are by our side, You are on our side, and You are abiding inside to make us communicators of affirmation and encouragement to others. Your joy fails not; it is fresh each new day, new zest for each challenge and courage for each step of the way. Thank You for Your lasting joy! Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 15, 2002.

To the Senate:

Under the provisions of Rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. NELSON of Florida). The acting majority leader is recognized.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 565, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

Pending:

Clinton amendment No. 2906, to establish a residual ballot performance benchmark.

Dayton amendment No. 2898, to establish a pilot program for free postage for absentee ballots cast in elections for Federal office.

Dodd (for Harkin) amendment No. 2912, to provide funds for protection and advocacy systems of each State to ensure full participation in the electoral process for individuals with disabilities.

Dodd (for Harkin/McCain) amendment No. 2913, to express the sense of the Congress that curbside voting should be only an alternative of last resort when providing accommodations for disabled voters.

Dodd (for Schumer) modified amendment No. 2914, to permit the use of a signature or personal mark for the purpose of verifying the identity of voters who register by mail.

The PRESIDING OFFICER. The Senator from Nevada.

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

SCHEDULE

Mr. REID. Mr. President, there will be no rollcall votes today. However, it is hoped there will be the offering of amendments during the day. The same would apply to the Monday we get back, a week from this Monday. We hope Senators will offer amendments then. It is the expectation that we could complete the finite list of amendments that are now on file on Tuesday.

I reviewed those with the two managers of the bill last night. There doesn't appear to be too much there that we could not complete on Tuesday. I am confident some of those amendments will be accepted by the managers. We will have a managers' amendment, and we are going to be very certain that is going to be reviewed prior to the offering of that amendment by a number of Senators who have expressed an interest in managers' amendments.

The next rollcall vote will occur on Tuesday, February 26, at 10 a.m.

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

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

Mr. LEAHY. Mr. President, I see nobody seeking recognition at the moment. I ask unanimous consent that I may speak as in morning business for such time as I may consume.

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

(The remarks of Mr. LEAHY are printed in today's RECORD under ''Morning Business.'')

Mr. DODD. Mr. President, if I may, to bring our colleagues up to date as to how we are going to proceed on the election reform bill. For the purposes of reviewing the bidding here, there will be no recorded votes today and no recorded votes on Monday, the 25th of February, when we return from the Presidents Day recess.

But as the two leaders indicated last evening, there is now a finite list of amendments submitted by our colleagues on both sides of the aisle. Senator MCCONNELL and I and our staffs are now going to go through those lists of amendments. When possible, we will attempt to accept amendments that have been offered. We may be able to start this process today and continue on Monday.

Some amendments may need modifications. If they can be so modified to be acceptable to both sides, Senator MCCONNELL and I will try to accommodate those without having recorded votes. Some amendments will require a decision by the body. We will try to keep those amendments to a minimum. Obviously, some amendments are going to require the full membership of this body to vote.

That being the case, on Tuesday, February 26, we will complete voting on those amendments with the fervent hope that by the end of that day, or at some point on February 26, we will go to third reading and final passage of this election reform bill.

That is the plan. We hope that is exactly how it will work. There are a number of amendments that are not drafted in proper amendment form. They are concepts and explanations of what Members would like to do. It is a little difficult to try to come to some agreement on a proposal that hasn't been crafted in legislative language. As a result, if you have an amendment in that status, I urge you, over the next hour or so, to get it in legislative form sometime today. We can analyze it and determine whether or not that amendment can be accepted.

A number of Members listed relevant amendments. I don't have any idea what subject matter is contained in such relevant amendments. So Members in that status ought to communicate with us as soon as possible about the specifics of the amendment they are submitting about. Maybe some Members just wanted a placeholder and said they had a relevant amendment. These Members may have said they had a relevant amendment and really don't have any intention of offering any language to this bill. If this case, at this stage it would be very helpful if we knew this. We could then reduce the list down to a manageable number without limiting debate for our Members on all the important issues in election reform.

I urge Members on both sides to do all of these things that I discussed if they are applicable. Taking action can expedite the process to final passage. On February 26, we don't want to have a marathon voting exercise all day, with 1 or 2 minutes in advance of a series of recorded votes. I am not terribly attracted to that kind of process. I understand the value of stacking votes from time to time. But I am not sure the institution shows its best effort when we engage in a vote marathon.

I would like to resolve as many amendments as possible and leave for the floor the ones that really do require debate. I suggest that so Members understand the real importance of what we are considering.

My plea is to urge all Members here to please get us your proposals. My staff, Senator MCCONNELL's staff, and Senator BOND's staff and Senator SCHUMER's staff, are all working on this bill. We can really try to resolve as many of these issues as possible today and over the next week. Then, on February 25, when we return, we can have a good debate on the remaining two, three, or four—whatever the number is amendments that deserve debate and consideration that go to the heart and core of some differences that may exist. That is how we are going to proceed.

I am grateful to colleagues for their participation over the last couple of days. We have had quite a few amendments. We have resolved some issues that needed resolution. I am heartened over the fact that we are going to have a good bill, a bill all Members can be proud of. Approximately 14 months after the November 2000 election, we are going to return to our States and say to people in this country, who wondered whether or not this body would ever be able to grapple successfully with election reform, that yes we could.

We have come together and resolved differences. We modernize and reform an election system that was in desperate need. As the Presiding Officer knows so well because he represents the wonderful State of Florida that was the subject of such attention for not just our country but the entire world.

As I have said to him and his colleague, Senator GRAHAM, on numerous occasions, this is not only a Florida problem; this is not only a November 2000 election problem; but rather an election problem that has gone on for many years which makes the problem a national problem. The only silver lining, I suppose, in all that unfolded in the November 2000 election is that we are doing something we probably should have done years before. Absent the national crisis that developed in the year 2000, we probably would not have gotten to real election reform for years to come.

As my mother always said, there is a silver lining in every dark cloud. The dark cloud is the November 2000 election. The silver lining is we are on the brink in this institution of reforming the manner in which Federal elections are conducted by our States and localities in a incremental way, but a significant and constitutional way. This means that every eligible voter in this country who chooses to vote will have an equal opportunity to cast a vote and have that vote counted. It will be a user-friendly, accessible institution, and those who want to game, cheat or corrupt the system in some way are going to find it much more difficult to do so successfully.

If we can achieve both of those goals in the coming days, then I think the American public can rightfully say this Congress, the second session of the 107th Congress, did not fail to take and meet the challenge that the November 2000 election posed for us.

AMENDMENT NO. 2916

Mr. DODD. Mr. President, on behalf of our colleague from Massachusetts, Senator KENNEDY, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. KENNEDY, proposes an amendment numbered 2916.

Mr. DODD. 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 clarify the application of the safe harbor provisions)

On page 22, strike lines 9 through 22, and insert the following:

(b) SAFE HARBOR.—

(1) IN GENERAL.—Except as provided in paragraph (2), if a State or locality receives funds under a grant program under subtitle A or B of title II for the purpose of meeting a requirement under section 101, such State or locality shall be deemed to be in compliance with such requirement until January 1, 2006, and no action may be brought against such State or locality on the basis that the State or locality is not in compliance with such requirement before such date.

(2) EXCEPTIONS.—

(A) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—The safe harbor provision under paragraph (1) shall not apply with respect to the requirement described in section 101(a)(3).

(B) OTHER FEDERAL LAWS.—An action may be brought against a State or locality described in paragraph (1) if the noncompliance of such State or locality with a requirement described in such paragraph results in a violation of—

(i) the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(ii) the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.);

(iii) the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);

(iv) the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.);

(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); or

(vi) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

On page 34, strike line 23, and insert the following:

(c) SAFE HARBOR.—No action may be brought under this Act

On page 44, strike line 1, and insert the following:

(d) SAFE HARBOR.—No action may be brought under this Act

On page 68, strike lines 19 and 20, and insert the following:

(a) IN GENERAL.—Nothing in this Act may be construed to authorize

Mr. DODD. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside.

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

Mr. DODD. Mr. President, I see a couple of my colleagues who have brought over charts, and that means speeches.

I ask unanimous consent that my colleagues be allowed to speak as in morning business.

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

The Senator from North Dakota.

WIND ENERGY

Mr. DORGAN. Mr. President, I thank the Senator from Connecticut for his leadership on the legislation that has been pending. I want to talk about wind energy. I suppose people will think then that I am talking about the Senate, but that is not the case.

We are going to turn to an energy bill very soon. When we complete the pending legislation before the Senate, we will turn to the subject of energy.

Our country and its economy are terribly dependent on a substantial amount of energy coming from the Middle East. We understand the dilemma for the American economy to be that dependent on a part of the world that is so unstable. So we ought to find a way to be less dependent on that part of the world.

I was in recent weeks in Central Asia and understand even more, once again, how fragile circumstances are there. Our economy and our country would be well advised to create an energy policy that extracts the kind of ultimate dependence we now have on an oil and energy supply from the Middle East.

How do we do that? We write an energy policy that does a lot of things: increases supply at home—oil, natural gas, and coal—and does so in an environmentally acceptable way; increases conservation; increases efficiency of appliances we use; and also especially promotes limitless and renewable sources of energy.

I am interested in the wide range of resources that belong to the last category, renewables: biodiesel, using sunflower and canola oil to run engines, taking a drop of alcohol from a kernel of corn and using that to extend America's energy supply, and then still having the protein feedstock from the kernel of corn.

Today, I also want to talk briefly about wind energy. The new technology in wind turbines is extraordinary. Being able to take energy from the air, from the wind, using new, high-technology blades and coursing the wind through these turbines, then transmitting that energy across the grid to provide electricity where it is needed in this country makes good sense. It is limitless energy. We can have it forever. We will never deplete the source of energy coming from the wind.

The production tax credit that has been on the books that provides the enhancement for wind energy projects expired at the end of last year. It is unthinkable that the Congress, poised to take up energy policy legislation, has allowed the production tax credit for wind energy to expire, and yet it did.

The production tax credit for wind energy needs to be extended, and not for one year and not for 2 years, but for 5 years. We need to do that now. We need to do that on an urgent basis.

We just cut a ribbon on the first commercial wind turbine along Interstate 94 in North Dakota. There are three blades on that turbine, each weighing 4,200 pounds. The turbine is a remarkable structure, and the efficiency and the new technology of these turbines is outstanding.

When we look at all of the States and the opportunity to take energy from the wind, North Dakota is No. 1. We are 50th in native forest lands, so we are dead last in trees, but we are No. 1 in the potential for wind energy. Any young boy or girl who has grown up in North Dakota knows that. We have a lot of breezes that move across the prairies in North Dakota. We are No. 1 in wind energy potential. They call us the Saudi Arabia of wind energy.

A week ago, I had a chief executive officer of a company come to my office, and he said: we have a project ready to be built in North Dakota—ready to be built right now. It will be a 150-megawatt wind farm. The plans for it are complete. Regrettably, he said, they are on the shelf until Congress extends the production tax credit.

It does not make any sense to me, at a time when we are trying to figure out how we increase our supply of energy, to have companies that have the money, the plans and the will to produce 150 megawatts of wind-generated electricity in a State such as North Dakota, but to have those plans on the shelf because the Congress is dragging its feet.

I know some will say: the extension of the production tax credit for wind energy has been inserted in this bill or that bill. In fact, the House of Representatives included it, I believe, just yesterday. They wrote another stimulus bill, which is a perfectly terrible piece of legislation, a big give-away to a lot of big companies that do not deserve it, and then added the extension of the production tax credit for wind energy on that vehicle. It is like putting earrings on a hog. It just does not mean very much. That is not the way we are going to get an extension of the production tax credit for wind energy. The way we are going to get it is for Members of the House and Senate to understand that we cannot come to the end of the year and have important policy issues, such as the production tax credit for wind energy, expire so that we have fits and starts and an industry that cannot get off the ground.

A major blade manufacturer in Grand Forks, ND, laid off employees because, when the production tax credit expired at the end of last year, projects were put on the shelf, including the project I just described—a project worth $150 million in North Dakota that would produce 150 megawatts of electricity. They have the money, they have the plans, and it is not happening, because this Congress has been dragging its feet.

I know the Majority Leader, Senator DASCHLE, agrees with me that we ought to do this. We ought to do it right now. Yet we cannot get it done because we have some people who insist on playing games with stimulus packages that will go nowhere, because they make no sense and will do nothing to stimulate this economy.

Let us extract the tax credit extensions from the stimulus package. Let us pass these on a stand-alone basis. Let us pass that package of extenders that should have been enacted by the end of last year. Congress should have done that. Everybody knows that. I hope when we return following next week's State work period that we will have, both on the Democratic and Republican sides, a desire and a will to

say that what we did not do at the end of last year we will commit to do now, and we will do it on an urgent basis, because that is what will contribute to a good energy policy for this country. Then we will turn to the energy bill.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from North Dakota.

Mr. CONRAD. Mr. President, I associate myself with the remarks of my colleague from North Dakota on the subject of wind energy. Clearly, this is a circumstance in which the Government needs to act, and act quickly, to provide the incentives that have been previously put in place but have now lapsed, incentives that can make a difference between projects going forward and not.

I do not know what could be more clear than that the incentives for wind energy are absolutely essential if we are going to diversify the base of energy supply in this country, move to more renewables, and have a greater chance of reducing our dependence on foreign sources of energy that leave us vulnerable in a time of conflict in the very areas of the world in which much oil production is occurring.

AGRICULTURAL PRIORITIES

Mr. CONRAD. Mr. President, when I came to my office this morning, I received the surprising news that our Secretary of Agriculture has now apparently asked her counterpart in Canada to come to the United States to lobby against the farm bill that is pending.

I have never heard of such a thing. We now have reports that the Secretary of Agriculture of the United States is asking an official of a foreign government to come to Washington to lobby the Congress against the farm bill that is designed to help American farmers? What is she thinking of?

The article I am referring to is from the Ottawa Bureau of the Western Producer, and this story says the Canadian Agriculture Minister, Lyle Vanclief, received surprising advice when he called American Agriculture Secretary Ann Veneman to complain about the possibility that a new United States farm bill would authorize a multiyear, multibillion-dollar farm subsidy program. Veneman invited Vanclief to come south to get involved in the debate. This is a quote from the article:

> She told Lyle to put pressure on Congress, Vanclief press aide Donald Boulanger said. She said their political system is different from ours because Congress has so much power. She said—

This is quoting the Secretary of Agriculture of the United States—

> Lyle, you have to help me lobby Congress.

This is not the way any Cabinet Secretary ought to do their business. It is totally and thoroughly inappropriate for the U.S. Secretary of Agriculture to ask an agriculture minister of a foreign government to come and lobby the Congress against a farm bill that is designed to help American farmers. This cannot be.

I am writing a letter today to the President asking him to renounce these apparent efforts by his Secretary of Agriculture to have the officials of a foreign country become involved in a domestic political discussion in our country.

This is a very serious matter. This cannot be the way this administration does its business. I call on the President today to send a very clear message to the Secretary of Agriculture in his administration that she cannot be pursuing foreign government officials to come to this country to lobby this Congress to become involved in a debate in our country. What is next by this Secretary of Agriculture? Has she forgotten whose side she is on? She is in the Cabinet of the President of the United States, not in the Cabinet of the Government of Canada. She is not in the cabinet of the European governments, which would welcome the kind of advice that apparently she is giving and the kind of involvement in our domestic affairs she is reportedly seeking from the minister of agriculture in another country's government.

It is as though the Secretary of Agriculture of the United States has completely forgotten her obligation. The reason it is critically important for us to pass a farm bill is to try to level the playing field to some degree with our major competitors.

In case our Secretary has forgotten, I have a chart which shows an analysis of the difference between what our major competitors are doing for their farmers and what we are doing for ours. This is Europe. They are our major competitors. This is what they are doing on average per year to support their farmers: Over $300 an acre of support. The comparable figure in the United States: $38. These are not my numbers, these are the numbers of the Organization for Economic Cooperation and Development. These are the international scorekeeper's numbers. They are the ones that are telling us our major competitors are doing far more for their producers than we are doing for ours. And it does not stop there, because on world export subsidy, this is the picture: This pie represents all world agricultural export subsidies. The blue part of this pie is Europe's share. Eighty-four percent of all world agricultural export subsidies is European. They are buying these markets. The U.S. share is this little red sliver—less than 3 percent. So we are being outgunned nearly 30 to 1. And we have a Secretary of Agriculture who is reportedly calling on an official of a foreign government to come to our country to lobby our Congress against a farm bill for our farmers? It is absolutely preposterous.

This is what our farmers are up against, and we have a Secretary of Agriculture who is supposed to represent American farmers, not Canadian farmers. Here is what American farmers have experienced: The green line is the prices farmers have paid for the inputs they must buy. The red line shows the prices farmers have received.

It is very interesting that the peak of prices for farmers occurred at the time we wrote the last farm bill. Since that time, one can see what has occurred: A virtual price collapse. The gap between the prices farmers are paid and the prices they pay has turned into this enormous gulf. It is no wonder agriculture in America is in deep trouble. It is no wonder when I ask my farmers what happens if they do not have this new farm bill, the answer from one of the major farm group leaders in my State was: It will be a race to the auctioneer.

That is the reality. That is because our farmers are out here playing on the world stage. We are asking them to compete against the French farmer and the German farmer, and we are telling them: While you are at it, take on the French and German Government, as well.

That is not a fair fight. We can either choose to wave the flag of surrender and give up, throw in the towel, let our people be wiped out, or we can fight back. That is what this farm bill debate is about.

Now we have the Secretary of Agriculture of the United States apparently calling her Canadian counterpart, urging him to come to this country to fight against the farm bill that is moving through our Congress. I have to wonder what she is thinking. She is not on the payroll of the Canadian Government. She is a part of the United States Government. It is thoroughly and totally inappropriate for her to be asking a representative of a foreign government to come to this country to lobby the U.S. Congress against a farm bill for American farmers.

Mr. DORGAN. Will the Senator yield?

Mr. CONRAD. I am happy to yield to the Senator.

Mr. DORGAN. I listened to my colleague. I have not seen the report, nor do I know the contents of that report. However, as my colleague has stated, it is not appropriate, in my judgment, for Canadians to be lobbying our Congress about a domestic farm program, or for anyone from our administration to be inviting them down.

My hope is that that did not happen that the press report is erroneous—and the Secretary will put out a statement saying that is not accurate. If it is accurate, it is inappropriate. Senator CONRAD is certainly right about that.

This raises the broader point that, for the last 6 months, trying to get a farm bill out of this Congress has been an awful process. It is as if those who knew that we needed to get a better farm bill in order to enable family farmers to survive have been on a bicycle built for two, and we have been on the front seat pedaling uphill as hard as we could pedal, and the administration has been on the back seat with their foot on the break.

Every step of the way the administration has said: we don't think you should do this; we don't believe you need a new farm bill. The administration told the House of Representatives not to write one. And the House of Representatives said: it doesn't matter what you say, we will do it.

The administration told the Senate not to pass a farm bill in 2001. We had to go through three cloture votes and still could not get the 60 votes necessary to pass it in 2001.

This year, We have finally gotten a bill out of the Senate. It is in conference. We need to complete this quickly.

With respect to the issue of Canada, Canada is a good neighbor of ours, but it regrettably has undercut our Government and undercut our farmers in every way possible since the United States-Canada Free Trade Agreement. Canada dumped its wheat in our country and refused to open its books and records that would demonstrate there is unfair trade. We have sent people, including the GAO, to Canada to get those records. The Canadians have effectively thumbed their nose at all of our representatives and said: we are not going to give them to you.

I don't think we need advice from Canada about how to help our farmers. What we need from the Canadians is for them to stop hurting our farmers. They have a State-sponsored monopoly in Canada called the Canadian Wheat Board that would be illegal in this country. Every day in every way for years they have been trying to undercut our family farmers with unfair trade.

Senator CONRAD is right when he says we do not need advice from Canadians about how to do domestic agricultural policy in our country. It is not welcome in my view. What is welcome is for the Canadians to decide that good neighbors ought not undercut each other with unfair trade. If they take that step once, they help American farmers with respect to fair trade.

I thank Senator CONRAD for allowing me to respond to his comments.

Mr. CONRAD. I thank my colleague for his insight. It is a remarkable set of circumstances. I call on the Secretary. If this press report is inaccurate, I hope she will say so publicly and do it today. But this press report quotes the spokesman, a press aide of her counterpart in Canada, the Canadian Agriculture Minister, Lyle Vanclief; his press aide, a Mr. Donald Boulanger, is quoted. This is what the article reports:

She told Lyle [Mr. Vanclief, Canadian Agriculture Minister] to put pressure on Congress.

That is in quotation marks. Following that, again quoting Mr. Boulanger, the press aide for the Canadian Agriculture Minister:

She said their political system is different from ours because Congress has so much power. She said, Lyle, you have to help me lobby Congress.

I hope it is wrong. I hope the Secretary will today indicate she never made any such invitation, that she never made such a statement. If this is her statement, I think she has a lot of explaining to do. It probably should start with an explanation to the President of the United States, why a Secretary of Agriculture of the United States is imploring her Canadian counterpart to come to lobby the U.S. Congress against a farm bill that is pending before the Congress of this country.

TAX CUTS

Mr. CONRAD. Mr. President, on another subject, I noticed in today's Washington Times a story headlined: ''White House to Show Triumph of Tax Cuts, Says Recession Stalled Jobs Added.'' This is a news story that comes as a result of a speech later today to the Council on Foreign Relations by Vice President CHENEY, and it indicates that he will present findings by the President's Council of Economic Advisers as an answer to Democratic critics of the tax cut. The findings the Vice President will discuss show the third quarter growth last year would have contracted at an annual rate of 2.5 percent instead of the reported 1.3 percent without the tax relief.

That should not be any great surprise to anybody. What is surprising is the Republicans attempting to claim credit for the tax cuts that occurred last year.

We should not rewrite the history of what occurred. Last year, it was the Democrats who were proposing much greater tax relief than the President's proposal because we believed we needed to give lift to the economy. Here are the facts. For 2002, the President's budget proposed almost no tax relief. The Democratic budget proposed $60 billion of tax relief last year.

Those are the facts. Absolutely, Democrats were for more tax relief last year than the President proposed because we thought we needed to give lift to the economy. In fact, we actually passed even greater tax relief than that. But this is what was in our budget. That is what was in the President's budget. I don't think the administration should be running out and claiming credit for what was our idea.

This is what actually passed last year: a total of $73 billion, $33 billion in the form of the rebate, and corporate tax changes of $40 billion. Some of the latter were just timing questions that had no impact on stimulus.

In terms of the fundamental question about differences in tax cuts, we were not in favor of as much of a tax cut over the 10 years. While we favored a much bigger tax cut last year in order to give lift to the economy than the President proposed, we proposed a much smaller tax cut over the 10 years because we were concerned about the impact on long-term interest rates.

Our tax relief proposal was $750 billion over 10 years; the President's proposal was $1.6 trillion. We said at the time that we feared his tax proposal was too large and would threaten the Social Security and Medicare trust funds.

Guess what? We were right on both counts. We were right to support a bigger tax cut last year, to give lift to the economy. We were right to support a smaller tax cut over the 10 years because the larger tax cut endangered the trust funds of Social Security and Medicare. The facts are now in, and it is just as clear as can be, we were right. The President's new budget shows he will be taking $2.2 trillion over the next 10 years out of the trust funds of Medicare and Social Security. In Social Security alone, the President will be taking over $1.6 trillion of Social Security trust fund money to pay for his tax cut and his other spending priorities. That is a fact.

So, yes, tax cuts are beneficial at a time of economic slowdown. Democrats proposed them. Again, the budget difference is very clear. The budget difference, in terms of what was proposed, is right here. This is the President's budget: $183 million. That is what he proposed for tax relief in his budget for last year. Our budget resolution had $60 billion of tax relief. That is the fact.

Let's not get confused about the 1-year and the 10-year. It is absolutely true that over 10 years we proposed smaller tax cuts so as not to raid the Social Security and Medicare trust funds. But for the Vice President to run out now and claim the tax cuts of last year were really their idea—you have to go back and look at the budget they submitted. It was not their idea. It was the idea of the Democrats who proposed much more significant tax relief last year to give lift to the economy. That is the fact.

We also said last year that the 10-year tax cut the President proposed would have an adverse effect on long-term interest rates. Again, I think the evidence is now quite clear. Here is what we see in terms of short-term rates versus long-term rates. We have had eleven interest rate reductions by the Federal Reserve? You can see that by the short-term rates: 11 reductions, and the short-term rates have come down smartly.

But look at long-term rates. Long-term rates have been largely stuck. They have not come down. That was one of the concerns we had about the President's long-term proposal, that the markets could see that his budget plan did not add up and that would put pressure on long-term rates and keep them high. That is exactly what has happened. These rates are higher than we believe they would otherwise have been.

It is true that short-term rates have come down dramatically. Long-term rates have not. So we believe our position has been confirmed on all counts. No. 1, we supported more tax cuts last year in our budget than the President did in his because we wanted to give

lift to the economy at a time of economic weakness. Now the Republican White House is going out and saying they are the ones who had the idea. They are not. Anybody who cares to research it can go back and look at the President's budget—not just the first budget he submitted, but the second budget he submitted, the follow-on budget in the spring. It is the same thing. He had virtually no tax cut last year.

The February budget had virtually no tax cut, and his April budget had virtually no tax cut. The people who were pushing for a big tax cut last year for the year 2002 were those of us on this side of the aisle, Democrats. And we were right.

As it turns out, we were also right to oppose the size of his 10-year tax reduction because we said then—two things. No. 1, it would endanger the trust funds of Social Security and Medicare, and we now know that is true. No. 2, we said it would put upward pressure on interest rates; that, even at a time when the Federal Reserve was lowering short-term rates, it would hold long-term rates up. That is exactly what we see. The evidence is in. It is just as clear as it can be.

I hope as we move forward this year, we can move to rectify fiscal mistakes that were made last year. The raids on the Social Security and Medicare trust funds, the President's budget plans, are dramatic.

Here are the facts. The President is going to be taking every penny of the Medicare trust fund surpluses over the next 10 years to pay for his tax cuts and to pay for other spending priorities—every dime—over $500 billion, according to his own calculations.

The President is going to be taking, under his budget plan, over $1.6 trillion of Social Security surpluses over the next decade to pay for his tax cuts and other spending priorities. It is in his budget. That is his plan.

There is only $600 billion left, every dime of which is Social Security money. The Congressional Budget Office, we believe, when they rescore the President's proposal, will show that virtually all of that is gone because the President has dramatically underestimated the cost of Medicare over the next 10 years.

Yesterday, in a hearing with Health and Human Services Secretary Tommy Thompson, I showed that the Congressional Budget Office believes the President's budget has underestimated the cost of Medicare by $300 billion over the next decade. So there is no money left except Social Security money. That is the hard reality. And the President's budget has taken most of that.

I believe history will show very clearly that Democrats last year proposed a greater tax cut in 2002 to try to give lift to the economy, but we proposed a more modest tax cut over the 10 years because we did not want to endanger the trust funds of Social Security and Medicare, and we did not want to keep long-term rates from following short-term interest rates down because that also gives lift to the economy.

What is important to understand is that fiscal policy—that is, the spending and tax policy of the Federal Government—can adversely affect the monetary policy that is guided by the Federal Reserve Board. While we move to give lift to the economy through stimulus, that can all be countered by interest rates. If interest rates go up or stay high, that can prevent the economy from gaining strength and moving forward.

Facts are stubborn things, as a previous President said. I believe the facts of who stood where with respect to economic policy are just as clear as they can be—absolutely. Tax cuts last year helped reduce the impact of the recession. But it was Democrats who advocated substantial tax cuts last year. It was not the President, either in his February budget or in his April budget. He proposed virtually no tax relief last year. That is the fact.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE ADMINISTRATION'S COUNCIL OF ECONOMIC ADVISERS REPORT

Mr. DASCHLE. Mr. President, the administration's Council of Economic Advisers will issue today some self-serving economic revisionism—a little like a figure skating judge awarding the gold medal to his own team. We are going to hear that the recession was somehow shorter and shallower than it would have been without last year's mammoth, surplus-swallowing tax cut.

Let me just say, I might like to change economic history, too, if I had just blown a $5.6 trillion surplus in less than a year. But let's set the historical record straight.

The administration's proposed 10-year tax cut, when they offered it last year, was $1.7 trillion, plus about $300 billion in interest—about $2 trillion. Of that, there was zero stimulative tax cut. Not a dime was to go out to the American people in the year 2001, last year.

Let me restate that. There was no economic stimulus in the $2 trillion tax cut that the administration originally sent to Congress.

Democrats who were concerned about the recession were the ones who proposed to give working American families immediate tax relief to get the economy going again. Our Republican colleagues, as late as last week, were arguing that there is no stimulative impact at all to rebates for working Americans.

But now we have the White House Council of Economic Advisers suffering a case of convenient economic amnesia. They are not only forgetting that the administration did not propose a stimulus, they are also forgetting what happened to long-term interest rates as a direct consequence of their ill-advised, long-term fiscal policy.

The administration's plan, history will show, was exactly reversed: No stimulus but huge, long-term fiscal damage.

The budget just released affirms the return to deficits. It has been hugely damaging to our long-term fiscal condition, including diverting $1.5 trillion of the Social Security trust funds just as the baby boom generation is about to retire.

Just as important, though, is that long-term fiscal mismanagement has hurt us in the short term. Long-term interest rates have remained stubbornly high even as the Fed reduced short-term rates 11 times. Ten-year Treasurys were at 5.01 percent in January of 2001, and at the beginning of February 2002, they were at 5.05 percent.

That means that homes are harder to buy, student loans are more expensive, credit card interest rates remain unnecessarily high. All of that has harmed people, and it has harmed the economy.

So let's just remember where we were last year at this time: The administration had the wrong prescription for both the immediate and the long term. They proposed no tax cuts at all during the year 2001—zero for working families. It was Democrats who insisted on a rebate that ultimately passed without the support of the administration. But then they gave huge giveaways—tilted heavily toward those at the top income levels—that explode as we move forward. Those giveaways could expose us to fiscal disaster as the baby boomers approach retirement.

So we should be clear on what happened. Democrats were for immediate stimulus for working families and for prudent long-term tax cuts that would not have jeopardized our fiscal future or the retirement security of millions of Americans.

The report that we are going to get today from the administration is trying to substitute political sound bites for sound economic analysis. No fair judge would call the administration's economic plan a medal-winning performance.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

Mr. DASCHLE. Mr. President, under the authority granted to me on Thursday, February 14, I now call up Calendar No. 65, S. 517.

The PRESIDING OFFICER. The leader has the authority. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 517) to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for the fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 2917

Mr. DASCHLE. Mr. President, I have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself and Mr. BINGAMAN, proposes an amendment numbered 2917.

Mr. DASCHLE. I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DASCHLE. Mr. President, we have seen in the last year that energy security is related to economic security as well as to national security. Americans need and deserve an energy plan that truly moves us towards energy independence. At the same time, America's appetite for energy continues to grow each year. Over the next 10 years, the United States is expected to consume roughly 1.5 trillion gallons of gasoline, yet the United States holds only 3 percent of the known world oil reserves.

There is no question that we need to free ourselves from our dependence upon foreign oil and the volatility associated with it. But increased production alone will not meet this demand. It is clear we need a new approach.

Last year, Democrats promised our colleagues they would begin an open debate on energy legislation before the Presidents Day recess. Today we are keeping that promise and bringing to the floor an example of that new approach, a comprehensive, sensible, and balanced plan to address the energy challenges of our Nation.

This bill will achieve a number of important objectives. It will reduce our dependence upon foreign oil. It will ensure abundant and affordable energy for all Americans. It will create jobs for American workers. It will improve our air quality and reduce emissions of greenhouse gases which will make the United States a more credible participant in the international effort to address this serious problem.

This bill is the work of nine Senate committees. It reflects a broad range of ideas and proposals. It has the provisions that will allow us to use our traditional fossil fuel supplies more intelligently and incentives to help us diversify our energy supplies with renewable sources such as wind and solar, geothermal, and ethanol.

This bill also seeks to take advantage of the huge opportunities for commonsense conservation in our cars and homes, the appliances we use every day. In fact, the fuel efficiency provisions of this bill will save the United States as much oil as we import from the Persian Gulf.

If the goal—as so many of my colleagues have stated—is true energy security, then this is the way to achieve it: By balancing production and conservation, innovation, and improvement in existing technology.

This bill also recognizes the linkage between energy policy and climate change. To that end, it includes a number of bipartisan proposals to confront the rising tide of global warming. It has been said that we are all continually faced with a series of great opportunities brilliantly disguised as insolvable problems. Meeting our energy challenges is a difficult problem, but it is also a great opportunity to demonstrate America's strength and American ingenuity.

I thank all the chairmen who worked so hard during the last few months to craft this legislation. I look forward to working closely with them, with my Republican colleagues, and the White House to craft final legislation that hopefully will be signed into law this year.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. DAYTON). Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I was very pleased to hear the remarks of the majority leader relative to the introduction of the energy bill. I have that bill here. It is important to recognize that it is about 500-some-odd pages. It is a very complex bill. I want to make a brief reference to the majority leader's comments where he thanked the chairmen who helped craft this bill.

This is what the bill looks like. As we start in, it is going to be quite an educational job because much of the bill is crafted without the input of the members of the committees of jurisdiction.

When the majority leader says he wants to thank all chairmen, I join and applaud that effort, but what about the members of the committees of jurisdiction? To some degree, they have been left out of this process, which I think is extremely unfortunate. Did they help craft this bill? Were they asked? Clearly the answer is no.

As an example, as the ranking member of the Energy and Natural Resources Committee, I can certify that the committee has not had an opportunity to, in a markup, deliberate on the merits of this package of some 500 pages covering aspects as complex as electricity and electricity deregulation.

It is fair to say this bill is going to require a great deal of time and a great deal of education. There are technicalities associated with the electrical portion that are so complex that without having a committee process where it is debated within the committee so that we formulate positions and vote out the amendments on the basis of examination, on the basis of a support group of both Republicans and Democrats coming together, we are going to find ourselves in a situation where we have to depend on a lot of time and explanation in the Chamber.

Members are going to be torn in the educational process by lobbyists who are going to educate Members on specific issues affecting their particular area of energy-related activities.

When the majority leader says he wants to thank the chairmen, I point out and elaborate a little further that not only has the Energy Committee been left out of the process but in the area of CAFE, which is a very controversial portion of this bill, the Commerce Committee has been left out.

The rationale behind that is beyond me, but clearly the majority leader has seen fit to take this bill up without the input of the actions of the committee of jurisdiction, the Commerce Committee. Therefore, we are facing a situation where there is a CAFE standard in the bill and it has not had examination from the committee of jurisdiction.

To some extent this is also true of the Finance Committee inasmuch as the tax components are to come in later, as I understand it, which basically means the various incentives in this bill that are provided to encourage new technological developments in recovering energy from coal-bed methane or developing hydrogen, and various other aspects which we want to encourage through tax incentives are also not in the bill because the Finance Committee simply has not been given an opportunity to vote out these issues.

It is a less-than-perfect process, though it is not the first time we have had a less-than-perfect process around here.

As we review these 500 pages of the bill, I put my colleagues on notice that since we finally got the bill introduced, we should reflect on what we have before us rather than what we do not have; in other words, be positive rather than negative.

I think the consequences of that reflection bear on the reality that I am going to have a lot more to say after we return from the recess. But before we get into the real debate, which will probably occur Tuesday or Wednesday after returning from the recess, I wish to point out a couple of points.

The President, in his State of the Union Address, charged us to help make our Nation more secure. That ''us'' means both the House and the Senate. The House passed H.R. 4. The House has done its job. The job of the Senate remains in front of us. But I think most Members would agree, our energy policy is a critical first step in

this challenge. And it is a challenge. It is a challenge when we fight for freedom, when we seize the day for democracy.

The rationale behind these comparisons is one thing. We need energy to accomplish them. When we pioneer technologies that save lives, when we turn on the conveniences that mark the differences between modern life and life in the past, we turn to energy.

We turn to energy as we look at the standard of living that Americans enjoy. If it is an SUV, it is an SUV because Americans prefer that as opposed to being dictated by Government as to what type of an automobile they have to drive.

When our energy supply is threatened, that is another matter, and that is why the work we are starting today is so critical. That is why the process that got us to this point has been—well, it has been frustrating. It has been a little embarrassing. I have highlighted it in my opening remarks.

Again, because the majority leader forced the Senate to consider the measure without the benefit of committee deliberation and action, he has made the task of moving the bill much more complicated than it might be ordinarily.

Difficult and divisive issues that could have and should have been addressed in committee are now going to be debated in the Senate Chamber. That is going to require an educational process because many Members simply are not familiar with many of the terms of much of the technology and there is not a basis of support coming out of the committee.

This is a flawed process, and I think it is unfortunate. It sets somewhat of a precedent in this body that the Energy Committee has simply been directed by the majority leader not to mark up the energy bill. That is rather extraordinary.

What is the rationale behind it? There are certain aspects in the bill to which the majority leader and others object. One of them currently is the ANWR issue, the contentious issue of the electricity matters, the contentious issue of CAFE, and many others.

Some things are left out of this bill. ANWR is certainly left out of the bill and, as a consequence, it is going to take 60 votes to put it in. Had we been able to vote it out of the Energy Committee—and we had the votes to put it in the energy package—why, it only would have taken 50 votes. The psychology is very clear. The majority leader has seen fit to set it up so that it requires a 60-vote point of order.

We can point fingers in each direction, and certainly in this political process within the rules of the Senate everything is fair, but I did want to bring this to the attention of my colleagues.

Even with additional hurdles being put before us on this overall bill, I believe we can and I believe we must move the bill off the floor and get it to conference, but we must do it in a way that addresses the difficult policy decisions that are before us rather than avoid them.

What we have to do in realism and what is expected is to build a bridge. There is no question that we see in the numerous polls that the country expects us to pass an energy bill. The Nation needs an energy bill, one that is rooted in finding new alternative energy sources, one that boosts our efficiency, helps us use less energy.

We all agree with this, but efficiency and alternatives alone are simply a two-legged stool. Alone they will not close the gap between energy supply and energy demand in this Nation. We must also seek to safely increase our domestic energy resources. We must do it in a way that protects our environment, and we can. We have the technology. We have proven ourselves.

Make no mistake, we are the most energy-efficient economy in the world, and we are getting better. So I think we have to recognize our standard of living is directly related to the efficient use of energy.

Since the 1970s, it now takes 40 percent less energy to produce each dollar of our GDP.

This chart shows in 1973 it took approximately 18,000 Btu per dollar of our domestic GDP, and today we are down to roughly 10,000 Btu per dollar. That is realism. That is progress. That is efficiency. That is the American way of life. It is the American standard of living. So we have become 42 percent more efficient per dollar of GDP. Our efficiency has increased.

We are going to hear a lot of criticism that we consume a quarter of the world's energy. I will acknowledge we consume a quarter of the world's energy, but let's hear the other side of the argument. We produce a quarter of the world's economy. That does not come by magic. We do not pick that off a tree. It is directly related to energy and our efficiency. Without the efficiency, we would not be using a quarter of the world's energy; we would be using a lot more. We use energy to produce a quarter of the world's economy. Let us keep that in mind and be proud of it, proud of the American worker and proud of our energy-producing industries that provide jobs in this country.

In doing so, we have proven we can balance our conservation and our environmental protection with increased domestic energy production. That does not mean we are doing it perfectly, but we are doing a better job, and we can continue to improve. For that reason, I refuse to take part in this fable being put forth by some in the environmental community in their spin machine that says this Nation needs to make a choice, a choice between using the energy technologies of today—our coal, our oil, our gas, our hydro, our nuclear—or using energy technologies of tomorrow. Reality dictates we have to use both.

Some say we have to spend on technology, and if we spend, we will develop that technology. That is very easy to say. We have expended over $6 billion in the last 6 or 7 years on advanced technology through grants and through the Department of Energy, and we should continue that. But to listen to some who say this debate is about energy vis-a-vis the environment, that is to say it is about today versus tomorrow. Some insist whatever solutions we propose, they cannot be done safely today. That logic, in my opinion, sells the American worker and American ingenuity far too short.

We need to strive for new technologies that diversify our energy supply. We need to conserve more. We need to become more energy efficient. If this bill passes, we will not be driving hydrogen cars tomorrow. We will not be powered by solar or wind by tomorrow morning. We simply cannot shut down the economy of this Nation and put our Nation's national security on hold for a generation or more while we work on a new technology that simply displaces our current dependence on coal, oil, gas, hydro, and nuclear. We have to build a bridge to the future. I think that is one of the cautions I have about this bill.

Some suggest we can simply get there through conservation. Even if we get to the point where wind and solar and alternative energies emerge up to 20 percent of our energy mix, where does the other 80 percent come from? It comes from energy sources we use today: Coal, oil, natural gas, hydro, nuclear. We must thoroughly explore new technologies to reduce our consumption in the coming years.

One of the problems I have with this bill is their proposal on CAFE, to move it up to 37, 38 miles per gallon. That is a very easy thing to say: Let's do it. How one gets there from here is something else and, as usual, the devil is in the details because the timeframe is somewhere in the area of 15 years before we have to be held accountable for setting a goal today that is going to come due 15 years from now. Most of us will not be here.

So who is going to be held accountable? It is easy to say, and vote for, let us get 37 or 38 miles. But what does it really mean? Does it mean safer cars, lighter cars? What does it mean for the American automobile industry in competing with the foreign automobile manufacturers, the cost of cars, the American labor? There are many issues involved.

Sure, we have to conserve more. We have to get better mileage. But do we want the Federal Government to dictate to the American people what type of an automobile they can buy or do the American people want their standard of living to dictate that?

I think these are some of the things we have to consider because we have more than 200 million cars on the road and oil will continue to be the primary ingredient in our surface transportation needs for the foreseeable future,

even if we do get up to the 30 miles per gallon.

One can buy that kind of a car. They can buy a 56-mile-per-gallon car if they want to. So the technology is out there. The question is, How do we get the American people to move over there?

Some are going to hang on to their old cars. They certainly have that right. We know some are going to take advantage of circumstances depending on their environment and where they live. If someone drives a long way and they want to be in comfort, they might want, obviously, a more comfortable car. If they have a quick commute, they might get by with a smaller car. My point is, we have these choices available currently.

The other issue is, again, as we address goals, which I certainly support, we also have to address heavily the accountability to achieve those goals. There are going to be efforts by NHTSA, which is the organization that evaluates the technical ability to increase mileage; they are going to come up with a study and some figures. I think we should try to balance the attainability with the reality associated with CAFE standards.

Furthermore, other sources of power are often confused with transportation because we have a lot of energy sources—we have gas, hydro, coal, and as I have said, nuclear—but what moves America and what moves the world is oil. We have no other alternative. Perhaps we wish we had. So we have to be careful to recognize the vulnerability of this Nation as we find ourselves 57 percent dependent on imported oil, and it is growing. The recognition that we are not going to have other relief for moving America other than oil I think has to be reinforced in the minds of many Members. One does not fly in and out of Washington, DC, on hot air, even though there is a little bit around here from time to time.

We have over 100 nuclear plants across the country. They are very important because they provide emission-free energy. Twenty percent of our entire energy mix is produced by nuclear. New electricity plants are being built today that run on natural gas. Yet we are pulling down our reserves of natural gas faster than we are finding new reserves. That is a fact. The United States is the Saudi Arabia of coal. We have centuries of supply. Can we use our technology to make our coal cleaner? We can. We can use these resources, and we can use them in a more efficient way, and we have to do that.

I conclude with a reference to jobs and the economy. Development of our domestic resources means lots and lots of jobs, thousands of jobs across the country, for crafting pipe, developing new software, building double-hull supertankers to move our oil from Alaska, my State, down to Washington and California.

This is a requirement under the Jones Act that mandates that oil must travel in U.S. vessels between two American ports, from Valdez down to the San Francisco Bay area, or the Puget Sound area, Los Angeles, and unload; double-hulled, supermillennium tankers built in U.S. shipyards with U.S. crews, not foreign ships coming from Saudi Arabia.

They provide high-paying, high-skilled jobs that will help turn our economy around and help get us back out of this recession. So jobs and the economy are very important as we address this energy bill.

It is estimated we lost 700,000 jobs in this country since September 11. It is payback time. It is time to put American workers back to work. I reject the underlying premise of those who oppose domestic resource development and those who do not believe the American worker and American technology can develop our natural resources while fully protecting the environment.

Some may unrealistically fail to recognize they can choose to rely on Saddam Hussein and others for energy supplies because we are currently importing somewhere in excess of 750,000 barrels a day from Saddam Hussein. On September 11, we were importing a million barrels a day. We all know we are enforcing a no-fly zone. We take out targets, we endanger lives of American men and women. We have been doing that since 1992. We also know that as we take his oil and put it in our airplanes and take out his targets, he takes our money, develops missile capability and aims it at our ally, Israel. We have not had U.N. inspectors in that country for 7 years. I hope we do not stand up someday and say, as we are saying about Osama bin Laden, we responded too late. We know what happened with bin Laden and his terrorists. They were active in taking out our embassy. They were active in other terrorist activities. We waited. Are we going to wait too long with Saddam Hussein and Iraq as they build up the weapons?

There is a day of reckoning at some point in time. We will have to face the reality of what Saddam Hussein will do, or our insistence that we inspect with the U.N. authority. The longer we put it off, the more devastating the retaliation on his part might be. We have to reflect on that. That is why I am so adamant in encouraging my colleagues to stand with some of the proposals and amendments that will be offered to reduce dependence on the Middle East.

A way to do that is to open up that very tiny portion of the Arctic in Alaska. I will show the location. It is important in this debate to reassert the footprint. This area, called ANWR, is pretty big, 19 million acres; 19 million acres is the size of the State of South Carolina. In this case, we have wilderness in the light yellow, refuge in the dark color. Congress set up the Coastal Plain with the authority to determine whether it should be open and put up for competitive lease. This is the area where the prospects for major discovery are most likely to occur.

It is estimated by the geologists that the recovery of oil in this area is somewhere between 5.6 and 16 billion barrels. What does that really mean? We have all heard of Prudhoe Bay. We have seen the 800-mile pipeline between Prudhoe Bay and Valdez. At one time, it was carrying 2 million barrels a day, 25 percent of the total crude oil produced in this country. Today, it is a little over a million barrels a day, about 20 percent of the total crude oil produced in this country.

What was the field estimated to produce? Ten billion barrels. It is on the 13 billionth barrel. If the estimates are correct, somewhere between 5.6 and 16 billion barrels; if you want an average of 10 billion barrels, it is as big as Prudhoe Bay.

The pipeline is in place. We are not talking about that. We are talking about building laterals over here about 70 miles. This could be equal to what we import from Saudi Arabia for 30 years or Iraq for 40 years. When Members say it is insignificant or it is a 6-month supply, Members must recognize that argument simply does not hold oil. Some say it will be 10 years. We built the Empire State Building in a couple years, the Pentagon in a couple of years. We could have oil flowing in a couple of years.

When will it occur? In the wintertime. How does it look in the wintertime? The winter is long. I will show you what it looks like. Winter in Prudhoe Bay, winter in ANWR, runs about 10 months of the year. It is tough. What is the footprint in the wintertime? We have ice road technology, so there is no permanent scar on the tundra. This is an ice road. No gravel. Simply remove the snow, build a pad, put water on it, take saltwater from the Arctic Ocean. This is the pad. That is the drilling.

What does it look like in the summertime as a consequence of this type of environmental commitment? That is it.

Returning to the first chart with a brief explanation, keep size in perspective. This area is 1.5 million acres out of 19 million acres. The House bill said we could only make a footprint of 2,000 acres. That is what we are asking in the amendment which we will offer in this bill—2,000 acres of 19 million acres. Somebody in South Carolina that has a 2,000-acre farm can relate to that. Gee, only 2,000 acres out of our whole State. The rest of the State will be either a wilderness or a refuge.

Some say we should not be doing anything. They do not understand what refuges are. This is a map of refuges for oil and gas and minerals that are developed in California, Texas, and Montana. These are the specific areas of activities. Louisiana has a lot of activity in refuges. Oil and gas exploration is not foreign to refuges.

Again, emphasize the footprint for those participating in viewing this

chart; 2,000 acres is it. There is a village already here for those who suggest somehow we are bringing a footprint in an area where there has never been a footprint. There is an airstrip, the old radar station. About 300 or 400 people live there. There are the kids going to school.

My point is, there are people up there—not very many—but they want a better way of life. This is a little social club. They want the same advantages you and I have: Reasonable health care, opportunities for their children, insurance. It all relates to jobs. They do not want welfare reform.

Some say we should not disturb their custom. Do we want to put a fence around those people? They have television. They know what is going on in the world. Their customs change. They maintain traditions. That is very important because that is who you are.

By the same token, they do not want to live as they used to. You and I know what a honeybucket is. A honeybucket is an indoor toilet, really a pail, as opposed to running water that you and I enjoy. They do not want to live that way anymore. They want schools, opportunities, and education. They support this. Yet there are some in the environmental community who would dictate how they prefer them to live, how they prefer them not to have jobs.

As we look at this transition of our culture and our people, recognize this is a very balanced area. If some are interested in more wilderness, I don't know whether that is possible or not. Clearly, we have wilderness. We have refuges. We have a development. We have a very small footprint.

I hope, with this brief explanation, more Members can reflect on the reality that this can be done right. We have the technology to do it. I have faith and confidence in this Nation's men and women who drive our energy resources.

We need an energy bill that provides today's resources to move us to tomorrow's promise, not shallow measures with empty promises that export our wealth and jeopardize national security, and ship our U.S. jobs overseas.

I recognize the public policy debate about how best to approach our energy policy is complex and will involve issues at the very heart of the extreme environmental agenda. I think we should frame this in a simple manner, in a manner the American people can understand. Is it better to have a strong domestic energy policy that safeguards our environment and our national security than to rely on the likes of Saddam Hussein and others to supply this energy—countries in the Mideast that are clearly unstable and will be for some time? The answer in my mind is clearly yes.

I know some in this Chamber suggest this energy bill is just politics, pure and simple. As far as another piece of the puzzle being laid out is concerned, we have heard all kinds of explanations of why this is bad. We have had broad support for reducing our dependence on imported energy sources. We have had veterans groups come up and support it. The response has been: ''False patriotism.'' I think that is inappropriate.

I refer to reality. Reality dictated a comment that was made by Mark Hatfield, the Senator from Oregon. I served with Mark for many years. He was a pacifist. He said: I'll vote for opening up this area, this sliver of the Coastal Plain, in a minute, rather than vote for a measure that would send American men and women overseas, in harm's way, to fight a war over oil in the Mideast.

As we look at the attitude of American veterans associations that support developing an oil supply here at home, I think we have to reflect on the comments of some of our Members who suggest this matter is really about false patriotism. They could not be more wrong.

I have been around here a long time. I have been around here long enough to know lots of people do things for their own reasons. What we cannot do is sell short the American family, the American laborer—America's future, if you will. Energy is not about politics. It is about families across the country wondering if their jobs will be there in the morning. It is about preserving the very independence of this Nation. I believe in a nation that is dependent on no one but God alone.

Our President has made it clear. President Bush has mentioned, from time to time, the necessity of having the Senate pass an energy bill. As recently as the State of the Union Address, he stated the urgent need for a national energy plan. He laid it down as one of his first proposals, with the Vice President. It is known. It has been publicized. It has been examined.

He knows energy is about jobs. He knows energy is about security. He wants to protect this Nation from what he calls a real axis of evil. When we apply that to Saddam Hussein, it sticks. To some extent it sticks in Iran. The very fact that we intercepted a ship filled with armaments for the PLO demonstrates that. Our President knows, as long as we are dependent on other nations for our energy, our very national security is threatened and our future is at stake. So we should make every effort, every responsible effort, to reduce that dependence.

Our challenge is clear. It is to deliver to this President an energy plan for our Nation and an energy plan for our Nation's future. I urge my colleagues to recognize the weight of this task before us as we begin the process. We should come together to have the courage to vote on the difficult issues and do what is right for our Nation.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REED. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

BUSH TAX CUT

Mr. REED. Mr. President, yesterday the President's Council of Economic Advisers released a report claiming that the Bush tax cuts are responsible for keeping the recession more mild than it otherwise would be. They claim that the already passed tax cut has raised prospects for a solid recovery and that by the end of this year there will be 800,000 more jobs than there otherwise would have been.

The report of the Council of Economic Advisers is somewhat curious. It is obviously self-serving. It does make a fundamental mistake. It tries to suggest that the Bush tax cut, which centered on the reduction of income tax rates principally benefiting the highest paid and most affluent Americans, is the cause of the slight stimulus we have seen over the last few months when in fact, to be honest about it, it has been the proposed rebates championed initially by the Democrats, not part of the initial Bush proposal, that has provided some stimulus effect over the last several months.

That goes to the nature of, first, a rebate directly to a whole host of Americans across a broad income range. Those rebates typically were spent, and that seems to be the case in this situation.

The reality of the Bush tax proposals is that, first, they were not effective this year. Much of his tax cut proposal does not become effective until the following fiscal year. As a result, to make claims that his tax concept is a part of this stimulus effect is rather suspicious on its face.

To suggest, as I think is the suggestion, that this ''tax plan'' will lead to further stimulus of our economy is also suspicious. What it will lead to, which is already apparent, is increased Federal deficits. This year, because of the poor economic performance of the country, we have seen the Federal deficit materialize. But as we go forward, most of that deficit can be attributed not to adverse economic circumstances but to the tax cut. As we deny resources that are necessary to have this Government function and operate effectively in many different areas, we will see the deficit grow and grow.

The problem there becomes, in order to fund Federal programs, we must go into the debt markets. We must borrow

more money. That puts pressure on interest rates, and that helps retard our economic progress and our growth.

The notion that the Bush plan has materially aided and assisted our recovery or softened the recession is very dubious.

What is also unfortunate is that in the last few weeks, as we have debated a possible stimulus package, there have been several proposals, one of which would be broadening the rebate we enacted last spring to include those Americans who did not pay income taxes but paid a great deal of taxes in terms of payroll taxes and other forms of wage taxation. I don't know how many times I have been in the Chamber and heard Republicans assail that approach as being inappropriate, ineffective, and inefficient.

What is curious is that the one aspect of last spring's tax plan that helped the rebates through the income tax system is being not only trumpeted as a Bush proposal but that exact or closely similar approach extended to payroll taxes is being derided and criticized by Republicans in the Senate as being something unworthy of the Senate.

I disagree. Frankly, last year if we had adopted a proposal to cut taxes that was targeted to lower income Americans, that was broad to include not just rebates for income taxes but rebates for payroll taxes, we would have seen a much less severe recession than we are seeing right now.

In effect, what we have today is the Council of Economic Advisers not providing good economic analysis but providing political spin on the tax plan we passed last year. I hope when we go back and reconsider the stimulus package, we will understand what stimulates the economy and not what is appealing to the political winds of the moment.

Again, we are in the grips of a recession. There are multiple causes. The President's tax proposal as originally proposed certainly did very little, if anything at all, to help soften the recession. I hope that will become more and more apparent.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

USTR DECISION REGARDING THE CANADIAN WHEAT BOARD

Mr. BURNS. Mr. President, I rise today in joining the Secretary of Agriculture in applauding the decision that was reached by our U.S. Trade Representative this morning on the 301 investigation into the Canadian Wheat Board and on durum wheat. I think Minnesota is a producer of durum, as we are in the Dakotas and in Montana. In her statement—and I associate with her words this morning—we support the immediate actions outlined in this decision, which will help us to move forward, removing the longstanding barrier in U.S.-Canadian relations. We are committed to working with the USTR in our country and, of course, with the WTO, and those trade negotiations should produce discipline which will lead to fundamental reform.

As you well know, that has been a bone of contention among grain producers in this country and, of course, with this Government and its relationship with Canada.

This morning, I heard a statement from a colleague who quoted a news article from a western producer in Canada, and by a secondhand source, that claimed the Secretary of Agriculture urged her Canadian counterpart to lobby Congress regarding the farm bill. I find that very unusual. In fact, I asked the Secretary this morning about that. I picked up the phone and called the Secretary and she denied making any such statement in its entirety. She did call the Minister of Agriculture in Canada, and he apologized for misstatements of his staff. Of course, I find that everybody is entitled to their opinion and everybody is entitled also to the facts. I would find it very unusual if another country got involved in the internal affairs of another. They usually do not do that, although we are now, it seems, at the end of the debate of the farm bill. That is not going to weigh in as it goes into conference. It is important legislation.

If there was ever a time for solidarity in agriculture, it is now. I say that to agriculturalists around the world because it seems as if we have gotten into this mindset that it is a right to have what we produce, when basically we have to figure out a way to make a living at it, one. Two, we don't like to see hungry people either, but quit putting up rules and regulations and deal with the market forces that would allow us to produce food and fiber in this country.

It seems in this community and in the agricultural community, if we want to take a shot at somebody, instead of using a straight line, we use a circle for firing squads. That usually isn't a very good situation. This morning, I again join the Secretary of Agriculture in this 301 finding. Now we will move on and try to deal with the situation with the Canadian Wheat Board. Living on the Canadian border is always a source of irritation whenever we have to move livestock and grain back and forth across the Canadian border. Of course, with the culture as it is in our State, and as it is in Alberta and Saskatchewan, our values are alike. Most of our problems are from east of the 100th meridian in understanding the situations we have to deal with in our production of food and fiber.

So I hope we can work this out and get away from misstatements or misguided statements and come together in the agricultural community and work together because I think the time has come that we are going to need some solidarity, especially from producers. I don't see processors having a hard time or purveyors having a hard time or any distributors of the food product having a hard time. But I know there are hard times when it comes to the production of food and fiber because we can't get a handle on our cost of production. We have to continue to think about that as Americans and think about the security that we have. Ours is about the only country in the world where you can have fresh lettuce in grocery stores in the wintertime in Minnesota.

It is a wonderful system in this country. You don't know how great it is until you travel around the world. Nonetheless, there are some misgivings about what it costs and the work that it takes to get the beans to the table.

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. REID. I ask unanimous consent the order for the quorum call be dispensed with.

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

THE INNOCENCE PROTECTION ACT AND ANOTHER DEATH ROW MILESTONE

Mr. LEAHY. Mr. President, I rise to discuss two disturbing and shameful milestones for our Nation, one that we reached this past December and one that is fast approaching. The milestone we have reached: 100 people in the United States have now been exonerated through the use of DNA testing. The milestone that approaches: The 100th exoneration of a death row inmate.

We can no longer ignore the fact that innocent people can, and do, get convicted in our country, and in some cases they are sentenced to death. We need to focus on these cases. We need to learn from them. And we need to do something about them. This is not a matter of whether you are for or against the death penalty, it is a matter of common conscience for our Nation.

So let me turn, first, to milestone No. 1, the 100th DNA exoneration.

In December 2001, a man named Larry Mayes became the 100th person in the United States to be exonerated by postconviction DNA testing. Mayes served 21 years in Indiana's prisons for a rape and a robbery—21 years for a rape and a robbery—but a rape and a robbery he did not commit. For 21 years an innocent man sat behind bars.

How was he exonerated? Was it by brilliant lawyers? Was it by the justice system recognizing a mistake? No. It

was by law students at the Cardozo Law School's Innocence Project. They spent years searching for the rape kit that had been used at trial, only to be told it had been lost.

But, fortunately—and, actually, fortuitously—the rape kit eventually resurfaced, and DNA testing proved what Mayes had been saying all along to anybody who would listen: He was the wrong guy.

This has become a familiar story. You can hardly pick up a paper these days without reading about another person freed by DNA testing. Larry Mayes was No. 100, but No. 101 was not far behind.

Shortly after Mayes was released, Indiana prosecutors asked a court to vacate the conviction of another man, Richard Alexander, after DNA tests persuaded them of his innocence.

Like Mayes, Alexander was officially cleared of all charges and released.

Just last week we learned that DNA tests had cleared yet another man, Bruce Godschalk, although the Philadelphia prosecutors initially refused to let him out of prison. He was finally released yesterday, after 15 years of what he called ''a living hell.''

Attorney General Ashcroft has referred to DNA testing as a kind of truth machine, which can ensure justice both by identifying the guilty and by clearing the innocent. The Attorney General and I agree on this, and I think most prosecutors would agree on this.

I had the privilege of being a prosecutor for 8½ years. I know nothing worried me more—this would be similar for any good prosecutor—than thinking that you might charge the wrong person. You wanted to make sure the person you charged was guilty. You do everything possible to make sure that you do not put into the system somebody who is innocent. Because the fact is that in many cases, the prosecutor is going to get a conviction no matter what.

That is why some prosecutors have taken the initiative when it comes to DNA testing, by systematically reviewing their convictions with an eye toward identifying cases in which DNA testing may be appropriate, and then offering testing to the inmates in those cases. It is an interesting choice to make. These prosecutors understand that their job is not to get convictions but to get at the truth, whatever it might be, even if it means admitting error.

It could be a two-edged sword, too, because you have some who will claim innocence but do not want the DNA testing because they know the claim may not be real. But for some who are there, the claim is real. And those in the criminal justice system must make every effort to make sure they have the right person. I applaud those prosecutors who, having secured a conviction, say, if you think DNA is going to prove differently, then we will give you the DNA test.

Unfortunately, there are still some prosecutors and some courts that continue to resist requests for postconviction DNA testing. It took Bruce Godschalk 7 years to get access to the DNA evidence that showed his innocence, and weeks more before he was freed. When I prepared these remarks, he was still in prison.

We committed ourselves to addressing this problem more than a year ago when Congress passed legislation in which we resolved to work with the States to assure access to postconviction DNA testing in appropriate cases. We can make good on our commitment in this session by passing the Innocence Protection Act, which I introduced last year with Senator SMITH, Senator SUSAN COLLINS, and others, which now has 25 cosponsors in the Senate, more than 200 in the House.

The bipartisan Innocence Protection Act proposes a number of basic commonsense reforms to our criminal justice system. One of the principal reforms is aimed at ensuring that people like Larry Mayes and Richard Alexander and Bruce Godschalk can get the DNA tests they need to prove their innocence.

The need for Federal legislation could not be clearer. Just last month, the Fourth Circuit Court of Appeals held that convicted offenders do not have a constitutional right to postconviction DNA testing. They reversed a lower court ruling in the case of a man serving 25 years for a rape he claims he did not commit. The Fourth Circuit concluded that postconviction DNA testing must be conferred by either State or Federal legislation.

When I first introduced the Innocence Protection Act in February of 2000, only two States, New York and Illinois, had any postconviction legislation dealing with DNA testing. Since then more than 20 States have acted. My cosponsors and I are gratified that our bill has been a catalyst for reform in many of these States, but there is much more to do. By passing the Innocence Protection Act, we can assure that the DNA truth machine is available nationwide to help remedy miscarriages of justice.

We should also be doing more to fund the use of DNA technology. In December 2000, Congress authorized two new grant programs to help our State crime labs update their facilities and reduce the backlog of untested DNA evidence. Unfortunately, the administration has not requested any funding for one of these programs, and neither is fully funded.

To make matters worse, the Justice Department recently decided to shelve its plans to make $750,000 in grants available for postconviction DNA testing. In a multibillion-dollar budget, the Justice Department said it could not make available a small amount to make sure that the people we have locked up are the right people. It is one thing to talk the talk at the Department of Justice; it is time for them to walk the walk. Certainly if they find that this cannot be funded when their budget comes before my committee, I will look very carefully at what things they believe should be funded.

With more than 100 DNA exonerations nationwide, we can be pretty sure that more testing would uncover more wrongful convictions and save innocent lives. I hope the Department reconsiders its ill-founded decision and moves forward with this important program.

Let me turn now to milestone No. 2. An estimated 99 people have been exonerated and freed from death row since 1973, according to the Death Penalty Information Center. If history is any indicator, another death row inmate will be exonerated in the next few months, bringing the total to 100.

To put this in perspective, consider this: 2 years ago, when I first introduced the Innocence Protection Act, I pointed out the startling number of cases in which death row inmates had been exonerated after long stays in prison. The number then was 85. In just 2 years, another 14 people have been cleared of the crimes that sent them to death row. These are people convicted, on death row, waiting to take that last walk down to the death chamber and be executed, and only at the last minute we find, sorry, made a mistake, got the wrong guy. Gee, glad we didn't pull the switch.

Most recently, in January, in the State of the distinguished Presiding Officer, prosecutors decided to drop all charges against Juan Roberto Melendez. He had spent 18 years on death row. A State judge overturned his conviction last year after determining that prosecutors in the original trial withheld critical information.

Not long before Melendez was released, the State of Idaho released a man named Charles Fain, who had also served 18 years on death row. The Attorney General of Idaho, Alan Lance, deserves a great deal of credit for authorizing postconviction DNA tests in this case and then—when the tests came back in Fain's favor—asking a Federal court to throw out the conviction. I applaud the Attorney General for doing that.

The third recent death exoneree was a man named Jeremy Sheets, who had served 4 years on Nebraska's death row. The prosecutors dropped all the charges against him after their State supreme court overturned the conviction.

Some people would argue that exonerations like these prove that the system is working. If you sat for years and years and years on death row or spent 21 years in prison all for crimes you did not commit, all in cases where if people just checked the evidence they would know they have the wrong person, and then they open the door of the prison and say, sorry about that great chunk of your life, we will give you a new suit and a bus ticket out of here, you can leave now, would you say that is a system that is working? Families and lives are destroyed.

In June of the year 2000, Professor James Liebman and his colleagues at the Columbia Law School released the most comprehensive statistical study ever undertaken in modern American capital appeals. They found that serious error permeates American's death penalty system, compelling courts to reverse more than two-thirds of all death verdicts.

With the capital system collapsing under the weight of its mistakes, the risk of executing the innocent is shockingly high.

Part II of the Columbia study, which was just released this week, reaffirms the fundamental conclusion of his first study—that the death penalty is fraught with errors and inconsistencies nationwide. But it also adds a new and disturbing twist: In a rigorous empirical examination, the new study shows that the States and counties that use the death penalty most are also the most error-prone, and the most likely to send innocent people to death row. When I read that, it sent a shiver up my spine. The States and counties that use the death penalty the most are the ones most likely to make mistakes.

When the legal machinery of the death penalty system is broken, practice does not make perfect. It is leading to more mistakes. Can you imagine how long any commercial enterprise would last if it accepted and refused to correct failure rates like these? And this is not a commercial enterprise; here we are talking about life and death decisions.

There is one other thing we should keep in mind. If the wrong person is on death row for a murder, if somebody is convicted of a murder they did not commit, that means that the real murderer is still running loose. Maybe everybody can feel comfortable that we have locked up somebody for that murder, but if there is still a killer on the loose, everything has broken down. Not only is an innocent man on death row, but a guilty man is running free.

Thanks to the careful research of Professor Liebman and his team, responsible people from across the political spectrum are now united in acknowledging that the question is not whether the system is broken, but whether it can be fixed.

Shortly after the Judiciary Committee held its most recent hearing on this subject last year, Supreme Court Justice Sandra Day O'Connor expressed skepticism about the administration of capital punishment in the Nation.

She said:

> The system may well be allowing some innocent defendants to be executed.

She went on to say:

> Perhaps it is time to look at minimum standards for appointed counsel in death cases and adequate compensation for appointed counsel when they are used.

I could not agree more. In fact, the reforms suggested by Justice O'Connor mirror core components of the Innocence Protection Act.

In addition to providing for postconviction DNA testing, our bill would establish a national commission to formulate reasonable minimum standards for ensuring competent counsel in capital cases. Ask any good prosecutor. They will tell you they want a good, competent counsel on the other side. You want to make sure you do not make mistakes.

As a prosecutor, I might win a case only to have it go up on appeal and get thrown out because of incompetent counsel on the other side. Five years later, I will be retrying the case. You want to do it right.

DNA tests, which have exonerated so many, are not as much a solution to the death penalty problem as they are a window, exposing the flaws of a broken system.

We have to understand in many cases—perhaps most—there will be no DNA evidence. In many cases—perhaps most criminal cases—there are no fingerprints. This is not Perry Mason. There probably will not be any DNA or fingerprints.

But where there is DNA evidence, it can show us conclusively, even years after a conviction, where mistakes have been made. And what it has shown us in case after case is that many of the mistakes that have landed innocent people in prison and on death row could have been avoided—and probably would have been avoided—if the defense counsel had been reasonably competent.

Ensuring competent counsel is the single most important step we can take to get at the truth and protect innocent lives. By helping States improve the quality of legal representation in their life or death cases, the Innocence Protection Act strikes at the very heart of injustice in the administration of capital punishment.

As I said when I began, it is not a question of whether you are for or against the death penalty. People of good conscience can and will disagree on the morality of the death penalty. But we all share the goal of preventing the execution of the innocent. I hope Senators will read the Columbia Law School study and consider the comments of Justice O'Connor. We should reflect on these two milestones and ask ourselves if we are satisfied with a system that condemns one innocent person to death for every 7 or 8 that it executes. It is past time for the straightforward reforms of the Innocence Protection Act.

THE BYRD RULE

Mr. BYRD. Mr. President, Thursday a week ago yesterday, the Secretary of the Treasury, Paul O'Neill, appeared before the Senate Budget Committee, at which time he and I had a discussion of the Senate rules, and particularly the ''Byrd Rule.'' I ask unanimous consent that the discussion to which I refer be printed in the RECORD. It speaks for itself.

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

Senator BYRD. Thank you, Mr. Chairman.

Thank you, Mr. Secretary.

On page 51 of the first volume of the President's Budget, I noted the picture of Gulliver being tied down by the Lilliputians. Here it is. The caption beneath it reads: ''Many departments are tied up in a morass of Lilliputian do's and don't's.

This is not the first time that the administration has invoked the word ''Lilliputian'' when referring to the priorities of Congress. It makes me wonder if the administration may not be requiring the members of the Cabinet to read Jonathan Swift's masterpiece of satire.

Last year, before the National Association for Business Economics, Mr. Secretary, you used the word ''Lilliputian'' in referring to the application of the Byrd rule on reconsideration bills. You were quoted as saying: ''the rules that have been created by just ordinary people are in some ways more and more like the Lilliputians tying us to the ground. I do not know why we have to live by these rules; after all, so far as I can tell, God did not send them.''

Inasmuch as you have invoked the name of the Creator, I would say that God works in mysterious ways his wonders to perform. This is not my quotation, but he does. He believes in rules, too. He gave them to Moses on Mount Sinai—the Ten Commandments. They hang in my office. Those are rules. I feel that God had his hand upon the destiny of this country when those illustrious men gathered in Philadelphia to create the Constitution of the United States.

I do not know whether or not you have read Catherine Drinker Bowen's book, but she says that at no other time could these men have written this Constitution, which has proved to be the earliest written Constitution in the world and the most successful one. She says that 5 years earlier, the people and their representatives who were at the Convention would not have experienced enough of the disadvantages or the shortcomings that they needed to have experienced to have written this Constitution. She says that were it 5 years later, the people would have been turned off by the excesses of the French Revolution and the carnage by the guillotine.

So the clock struck just at the right time. As far as I was concerned, that was God's hand, if you want to invoke God's name; that was God's hand at work.

You said ''The rules that have been created by just ordinary people''—the rules, Mr. Secretary, of the Senate have only had seven revisions in the more than 200 years of the Senate's history. Their roots go back into the House of Commons in Great Britain. Their roots go back to the Continental Congress. Their roots go back to the Confederation.

We are using rules of which the first 20 were written within the first 10 days of the Constitutional Convention's meeting. Those are rules.

Let us compare what Thomas Jefferson says about rules. Let us compare it with what you say. You said, ''The rules that have been created by just ordinary people are in some ways more and more like the Lilliputians tying us''—now, who is ''us''—''tying us to the ground. I do not know why we have to live with these rules; after all, so far as I can tell, God did not send them.''

Well, Mr. Secretary, I say with all due respect—and I have great regard for you—that you seem to have gotten off the track. You probably should have had a good study course in American history before you came here—I am not talking about the kind of history that comes up with cartoons like this. Many of the so-called history books of our present time are full of colorful cartoons just like this. They do not teach real history.

I read Muzzey back in 1927, 1928, 1929, 1932, David Seville Muzzey. That was history. There were pictures. Now, you say, ''The rules that have been created by just ordinary people''—these were not ordinary people, the men who signed the Constitution. They provided for the rules of the Senate.

The Congress and certainly this Senate is not ordinary, and it is certainly not Lilliputian. We are Senators. I have been before the people at the bar of judgment 29 times in these 50 years, counting this year, that I have served in Congress—29 times. I have taken the oath to support and defend this Constitution 16 times.

I am not asking you to answer this question—but how many times have you been before the bar of judgment of the people? In what elections did you run in order to represent the people? You were appointed. We were elected by the people, directly by the people—not like the President, indirectly, by electors who were elected by the people—we were directly elected.

Chairman CONRAD. Senator, if I could say, I grant 7 minutes and my first round of questioning to the Senator so he can continue in his statement.

Senator BYRD. Mr. Chairman, I thank you, and I will not dwell upon this any longer except to say that we are Senators, and you have been in this town one year. I have been in this town 50 years. I have seen many Secretaries of the Treasury. And I just want to tell you that we Senators are here to look after the interests of the people of our States. They are not well-to-do people—not all of them—in my State. They are not CEOs of multi-billion-dollar corporations. They cannot just pick up the phone and call a Cabinet Secretary.

In time of need—in drought, in floods, in famines, when a bridge is near collapse, when safe drinking water is not available, when health care services are endangered—they come to us. The people come to us. Yes, they are ordinary people. They are coal miners, they are farmers, they are schoolteachers, they are ministers, they are lawyers, they are bankers.

This cartoon on page 51 and comments throughout this budget suggest that this administration believes that so-called experts at bureaucratic agencies should determine the priorities of this Nation—not the Congress, not the people they represent. That suggests that the problems of the people are too little to deserve the attention of the administration.

Here is what the paragraph says by Dr. Gulliver: ''. . . it is critical that the government operate effectively and spend every taxpayer dollar wisely. Unfortunately, Federal managers are greatly limited in how they can use financial handling and other resources to manage programs. Federal managers lack much of the discretion given to their private sector counterparts to get the job done.''

We have seen what discretion given to private sector counterparts has done. We saw that in Enron.

This budget, wrapped in the American Flag, says: ''Government is ineffective under these conditions. During wartime, turf protection cannot dictate the national interest. The Congress should remove barriers and give the administration the tools to do the job that must be done.''

You say the Federal managers are greatly limited in how they can use financial resources. That is a good thing. These people, the so-called Federal managers, are not elected by the people, and we are talking about the taxpayers' dollars—the taxpayers' dollars. That is why there are rules. That is why we have rules.

So you say ''Federal managers lack much of the discretion given to their private sector counterparts.'' Yes, because they are dealing with tax dollars, the American people's dollars.

My question would be does this kind of nonsense belong in a budget document. Now, to be fair, if we are going to do that, let us have a little more fun. Why not refer to the territory that was called Brobdingnag. Swift also wrote about that. Dr. Gulliver visited Brobdingnag, where there were not pygmies, but giants as tall as church spires, and with respect to one step of those giants, that step covers 10 yards.

I would refer to this since we are in the business of using Swift's satire. This budget is a Brobdingnagian budget, a Brobdingnagian budget. Not bad.

If we want to continue this, we can do it after the meeting. I have been very generously given time at this point.

I just want to remind you, Mr. Secretary, that a lot of us were here before you came, and with all respect to you, you are not Alexander Hamilton.

I have a question. Steel company representatives and steel workers have worked through numerous hurdles and made a number of concessions to reach consensus on a plan to renovate the U.S. steel industry. They have let the administration know that in order for this plan to work, the President needs to conclude the Section 201 of investigation of steel importation at the earliest possible date, with a remedy of nothing less than a 40 percent tariff on steel imports.

In addition, the steep companies and workers have asked for the administration's help in removing barriers to steel industry consolidation in the United States and in relieving the costs to the maximum extent possible of health care and pension benefits to retirees.

Steel industry representatives from my own State have expressed optimism that this administration is working positively with them to advance such a multifaceted solution. In light of this very critical time for the steel industry and this window of just a few weeks that could mean a turning point to a revitalization of bankruptcy and collapse of an industry that ties under our national security, this administration submits a budget that cuts the steel loan guarantee program by $96 million.

I find it hard to share in the optimism, and I will just ask one question at this time, and I will have further questions that I will submit.

What can you tell this committee specifically about this administration's intentions with regard to helping the steel industry with tariffs, reorganization, and legacy costs?

Secretary O'NEILL. Well, Senator, what I said to the National Association of Business Economists, I stand by, because what I had in my mind and what I deeply believe is this—that where we have rules made by men that restrict the realization of human potential, they should be changed.

We had rules that said, ''Colored, do not enter here.'' That was a manmade rule. And there are lots of those same kinds of rules that limit the realization of human potential, and I have dedicated my life to doing what I can to get rid of rules that so limit human potential, and I am not going to stop.

Senator BYRD. Mr. Secretary, I have been around for a long time, and I try to live with the rules. You were specifically talking about the Byrd rule.

Secretary O'NEILL. I was talking about all rules that limit human potential and the realization of human potential, and referring to something different is fine if you wish to do so, but I would also like to say, because there was an inference in your remarks that somehow I was born on home plate and thought I hit a home run—Senator, I started my life in a house without water or electricity. So I do not cede to you the high moral ground of not knowing what life was like in the ditch.

Secretary BYRD. Well, Mr. Secretary, I lived in a house without electricity, too, no running water, no telephone, and with a wooden outhouse.

Secretary O'NEILL. I had the same.

Senator BYRD. I started out in life without any rungs in the bottom of the ladder. I am talking with you about your comments concerning the Byrd rule and the people who wrote these rules. I am not talking about putting a halter or a break on anybody's self-incentive or anybody's initiative. I have had that experience, and I can stand toe-to-toe with you. I have not walked in any corporate board rooms. I have not had the churning of millions of dollars into trust accounts.

I lived in a coal miner's home. I married a coal miner's daughter. So I hope we do not start down this road, talking about our backgrounds and how far back we came from. I am citing to you what you said in response to a question about the Byrd rule. The Byrd rule has saved millions and millions and millions of dollars for this Government, and we ought to live up to it.

Perhaps you ought to study the Byrd rule a little bit if you have not to the point that you can explain it. And just remember, the rule that I am talking about, those ordinary people—you are talking about Senators. They are ordinary people, and they are not going to let you get away with it. We are not going to let you get away with it.

So if you want to answer my question on steel.

Secretary O'NEILL. All right. As you know because you have been in some of the meetings that we have been having on the subject of steel, we began last year to see if it was possible to create a basis for the world to adjust the arguably 30 percent overcapacity that the world today has in steel, and through the President's efforts and administration work, we succeeded in getting the OECD to provide a structure for calling together the principal producers of steel in the world to try to get them to stipulate the need for capacity reductions, especially of capacity that is exporting its goods around the world with Government subsidies and undercutting the ability of almost any steel company in the world to make enough money to cover the cost of its capital, as a piece of a concerted, connected set of ideas about how we should proceed in this area.

Subsequent to beginning that work, the President filed a 201, and he has until March 6, I believe, to make a final decision of what level, if any, and kinds of combinations of tariffs and impositions he should put on imports in the United States to make sure that the world is fair in the way that we provide a basis for our own steel industry to make a living. There are day-by-day conversations going on to this issue of what tariffs or barriers or provisions should be imposed on the rest of the world, and as I say, the work will be done by the appointed date of March 6.

Senator BYRD. I hope the President will act and act immediately and act forcefully. He was in West Virginia and told the steel workers that he would help them. The Vice President certainly was in West Virginia and told the steel workers he would help them. West Virginia went for Mr. Bush, else you would not be sitting there today if my State had gone for Mr. Gore.

So the steel workers are hoping and praying that the President will act and act immediately to help them in this regard.

Thank you very much.

Chairman CONRAD. Senator Smith.

Senator SMITH. Mr. Secretary, I was looking at your resume, and I believe you started your professional employment as a civil servant for the Office of Management and Budget. Is that correct?

Secretary O'NEILL. In fact I started at the Veterans Administration as a computer systems analyst in 1961 and completed my previous Government service at the office of Management and Budget as deputy director in 1977.

Senator SMITH. And you have served in the administrations of Gerald Ford, is that correct——

Secretary O'NEILL. That is right.

Senator SMITH [continuing]. And President——

Secretary O'NEILL. Kennedy, Johnson, Nixon, and Ford.

Senator BYRD. Would the Senator yield to me?

Senator SMITH. I would be happy to yield, Senator Byrd.

Senator BYRD. Since we are talking about how many administrations we have been in——

Senator SMITH. You can beat us all, I am sure.

Senator BYRD. I have served with—not under—11 Presidents.

Senator SMITH. Well, I have great respect for Senator Byrd. I feel badly, though, if you feel demeaned appearing before this committee in any personal way, because I just want to say again for the record as I did in my opening statement that you did not need this job, but you are doing a fine job, and I believe you have served in many administrations, and you left a very lucrative position because you wanted to make the world a better place. And I think that needs to be said again. So I——

Senator BYRD. Would the Senator yield?

Senator SMITH. I would be happy to yield to Senator Byrd any time.

Senator BYRD. May I just add a little footnote along that line?

Senator SMITH. Of course.

Senator BYRD. I do not need to serve here, either. I believe I could retire and get more money in retirement than I earn as a Senator. I am talking about my retirement from the years I have served in Government.

Senator SMITH. I understand that.

I thank you, Secretary O'Neill, for your service to your country, and I thank Senator Byrd for his service to our country as well.

Mr. BYRD. Mr. President, with reference to the word ''Lilliputians'', that seems to be the prevailing way that officials in the Bush Administration view members of Congress. Several members of the Bush Cabinet have publicly used that term when speaking about the inconvenience of having to work with the people's representatives and the laws and rules that Congress writes.

Defense Secretary Donald Rumsfeld spoke to the National Defense University on January 31, 2002. Referring to Congressional earmarks in the defense appropriation bills, he said: ''The Congress has, for whatever reason, decided that they want to put literally thousands of earmarks on the legislation—that you can't do this, you can't do that, you can't do this, you can't do that. Well, your flexibility is just—it's like Gulliver with a whole bunch of Lilliputian threads over them: no one thread keeps Gulliver down, but in the aggregate he can't get up.''

OMB Director Mitchell E. Daniels testified before the Senate Budget Committee in July 2001 on the economic and budget outlook. Referring to Congressional earmarks, the OMB Director said: ''I would point out that Congress has got to help here. We struggle with earmarks in the federal budget, and . . . its very hard . . . when you are hogtied by a million lilliputian orders to do this, that, or the other, which maybe does not fit the strategy.''

Treasury Secretary Paul O'Neill spoke to the National Association for Business Economics in March 2001 regarding the Administration's desire to see a permanent tax cut enacted. A question was raised regarding the Byrd rule. Under current law, if the Senate passes a ten-year budget resolution, a tax cut reconciliation bill would have to sunset after ten years in order to be in compliance with the Byrd rule.

In response, the Treasury Secretary said: ''There is a very interesting thing that the rules that have been created by just ordinary people—are in some ways more and more like the Lilliputians tying us to the ground. . . . I don't know why we have to live by these rules, after all, they were only made by other people, and so far as I can tell, God didn't send them. . . . And, so, it's OK for us to entertain a different kind of an idea, and that . . . we don't have to live by rules that were made in a different time for a different purpose and a different set of circumstances.''

The last quote in particular addressed an arcane and little understood rule whose author put it into place in 1985. Its purpose was to stop rampant abuses of Reconciliation Bills, which were originally intended to lock in deficit reduction measures.

Because of tight time limitations—20 hours—a nondebateable motion to reduce the time and only a majority vote needed to reduce it, and no opportunity to debate a motion to proceed, reconciliation is a supergag rule, one that makes cloture look like a mere speck by comparison.

Reconciliation bills have frequently been grossly misused to ram costly spending measures through the Senate and to prevent thorough debate of controversial measures. The Administration chose a reconciliation bill for its controversial tax cuts last year, in order to take advantage of the ''fast track'' nature of reconciliation bills. However, in 1985, the Senate unanimously adopted the Byrd Rule. One part of the Byrd Rule is a budgetary restriction which prohibits reconciliation bills from either reducing revenues or increasing spending in a year beyond the last year covered by the budget resolution. Last year's budget resolution covered 10 years. Therefore all revenue losses in that reconciliation bill had to sunset in 10 years. The administration wanted the benefits of reconciliation, but now they complain about the restrictions of that same process.

The Byrd Rule has been quite effective when it has been enforced. I daresay that the Byrd rule has prevented billions of dollars' worth of questionable spending. I know that the Byrd Rule has brought controversial measures out into the sunlight of public debate by preventing such measures from being wrapped in a reconciliation bill and hustled in protective armor through the Senate.

For instance, on October 13, 1989, I commended Senators Mitchell, the then Majority Leader, and Senator Sasser, the then Chairman of the Budget Committee, on their tough enforcement of the Byrd Rule in the Reconciliation process of that year, whereby some 300 provisions which violated the Byrd Rule were stricken from the bill. May I add that reconciliation abuses are not only abuses promulgated by members of Congress. The administration's fingerprints are often on Byrd Rule violations as well. I vividly recall when President Clinton wanted to insert his entire healthcare reform package into a reconciliation bill, costing billions, changing hundreds of laws, and shielding a very controversial proposal from the sunlight of debate. When I said that I would raise a Byrd Rule point of order, the idea was dropped. The Byrd Rule is totally nonpartisan. It has saved billions of tax dollars and prevented much legislative mischief by both parties. Although its author's name is ROBERT C. BYRD, the Byrd Rule has helped curtail federal spending enormously.

It is well to remember that it is rules and laws that keep the powerful in check and the people in control. Yet, this year's budget document, ordinarily a relatively straightforward presentation of an Administration's views on the budget, is rife with political commentary about congressional earmarks, and even a cartoon—as I have already pointed out—depicting Gulliver tied down by the Lilliputians along with accompanying text that reflects an attitude of arrogance and disdain for the role of the Congress. It is a far cry from President George W. Bush's stated intention to change the tone in Washington. Partisanship and distrust are all that is accomplished by such an approach, and there is certainly enough of both to go around already.

Members of Congress are often convenient targets for disdain by Administration officials who do not have to stand for election and who often have independent wealth or lucrative careers to return to after their stint in public service is over. Congressional earmarks are easy to malign, but earmarks, such as the one which first funded the human genome project, are rarely discussed. Congressional earmarks have done much good. Of course some have turned out to be poor investments, but they are not the horrific evil that many suggest, and in reality their impact on the budget is usually quite small. What those who serve

in Presidential Cabinets tend to forget is that the people did not elect them to anything. They are appointed, and they serve at the President's pleasure. And it is worthwhile here to note that even the President that these officials serve is not directly elected. Only members of Congress are directly elected by the people in federal elections, and it is to members of Congress that the people come for assistance or to express their heartfelt views. Not many ordinary citizens have the wealth or influence to call up a Cabinet secretary or get an appointment with the President. Members of Congress are the people's elected spokesmen and women, and when we are viewed as ''Lilliputians'' by members of a President's cabinet, I suspect that the good people who elected us to serve are viewed in much the same manner. Tolerance of the arrogance of people in high places has worn very thin in this country. The people have had enough of Enron egos, and all-knowing, all-powerful bureaucrats, and the people well understand the need for serious curbs on power. Some sage once observed that the difference between a lynching and a fair trial is procedure. How true that is.

Mr. President, those who dislike the rules and laws that reign them in make the best argument I can think of for the wisdom of the Framers in separating the powers of government. And while Swift's Gulliver's Travels, and his tale of Lilliput may be required reading for the Bush Cabinet, I think that they may have actually missed the point of that famous satire. The point is this. No matter how big you think you are, the little people in this country can call you to heel. Because of the unique system of government we are blessed with, the people, in the final analysis, wield the power. And it is up to the Congress—the people's branch—to continue to write the rules that help to keep Presidents, bureaucrats, and wayward corporate executives in check. So, for my part I say, long live the Lilliputians! May they ever reign.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, last night, the Senate voted to confirm three additional nominees to the Federal district courts: James Gritzner from Iowa, Richard Leon from Maryland, who will serve as a judge on the District Court for the District of Columbia, and David Bunning from Kentucky.

With these votes, the Senate will have confirmed nine judges since beginning the second session three weeks ago. With these confirmations, the Senate will have confirmed 37 judges since the change in majority last June. That number exceeds the number of judges confirmed in all 12 months of 1997 or 1999 and, of course, more than during the entire 1996 session.

I would, again, urge the White House to work with home-state Senators, to work with Democratic and as well as Republican Senators, and to send nominees like James Gritzner, who received bipartisan support from his home-state Senators.

With the confirmation of Judge Gritzner, the Senate has confirmed two Federal judges from Iowa this week, the other being Judge Michael Melloy for the United States Court of Appeals for the Eighth Circuit. The Judiciary Committee moved quickly on these nominations. Both Judge Gritzner and Judge Melloy participated in the first nominations hearing of this session, which was the first confirmation hearing held in January in more than half a decade. They were reported favorably by the Committee at the earliest possible Executive Business Meeting this year, on February 7, and they are now confirmed, just one week later.

Indeed, Judge Melloy's confirmation filled a judicial emergency vacancy. That seat on the Court of Appeals for the Eighth Circuit, which includes eight states, Iowa, Arkansas, Minnesota, Missouri, Nebraska, North Dakota and South Dakota, has been vacant since May 1, 1999.

I recall that it was not so long ago, in 2000, when the Senate was under Republican control, that another nominee to this very seat on the Eighth Circuit, Bonnie Campbell, did not receive the courtesy of a vote by the Committee following the hearing on her nomination. She did not receive a vote due to the previous policy of allowing anonymous holds to be placed on nominees, even though in her case, both of her home-state Senators, one a Democrat and the other a Republican, supported her nomination. Bonnie Campbell, the former Attorney General of Iowa, did not receive the courtesy of a vote, up or down, during the 382 days between her nomination by President Clinton and the time that the Bush Administration withdrew her name.

In contrast, we moved expeditiously to consider and confirm Judge Melloy's nomination to the Eighth Circuit. Judge Melloy's confirmation eliminated the judicial emergency vacancy in that Circuit caused, in part, by the Committee's failure to act on Bonnie Campbell's nomination when Republicans controlled the Senate and the confirmation process.

Judge Melloy was the seventh Court of Appeals nomination confirmed by the Senate in the last seven months. That is seven more Court of Appeals judges than a Republican majority confirmed in the 1996 session, and as many as were confirmed in all of 1997 and in all of 1999.

I think that the last District Court Judge confirmed in Iowa was Judge Robert Pratt in 1997. Nominated initially in early August 1996, Judge Pratt was not confirmed until late May the following year, more than nine months after his initial nomination. I am glad that the Committee and the Senate were able to act more quickly than that with respect to Judge Gritzner.

In connection with both Iowa nominees confirmed this year, I thank the Senators from Iowa for working with the Committee. I especially appreciate the kind words of the senior Senator, Senator GRASSLEY, both at the Committee consideration and in connection with these confirmation.

Last night, the Senate also confirmed Richard Leon to the United States District Court for the District of Columbia. This is the third confirmation to this District Court considered by the Senate since I became Chairman last summer. Indeed, nominees to the District of Columbia District Court were among those included in our unprecedented hearings during the August recess last year. I thank Representative ELEANOR HOLMES NORTON for working closely with the Committee to fill all three vacancies that had existed in this Federal court.

Richard Leon's nomination was fairly and expeditiously considered by the Judiciary Committee and the Senate. His nomination was received last September, the ABA peer reviews were completed favorably in November, the Judiciary Committee held a hearing on his nomination during the first week the Senate was in session in January, his nomination was promptly considered by the Committee and reported favorably to the Senate last week, and last night the Senate confirmed his nomination to fill the last current vacancy on the United States District Court for the District of Columbia. Richard Leon received a unanimous well-qualified rating from the ABA peer reviews and received high recommendations from members of the legal community in the District of Columbia.

Of course, during the years preceding the change in majority, two nominees to the District Court for the District of Columbia, James Klein and Rhonda Fields, never received a hearing before the Committee or votes on their nominations. In fact, James Klein's nomination was pending for almost four years without a hearing during both the 105th and 106th Congresses. Despite Representative NORTON's strong and consistent efforts during those years, we were unable to obtain any action in connection with the vacancies that we have now successfully filled. Judge Leon will join Judge Bates and Judge Walton.

Last night the Senate also confirmed the nomination of David Bunning to a vacancy in the Eastern District of Kentucky. Since the elections in November 2000, three vacancies have arisen on the Eastern District bench. With this confirmation, the Senate will have acted to fill all three.

I scheduled a hearing for Karen Caldwell just six days after her file was complete. Her nomination was reported by the Committee 16 days later, and only 25 days after her file was complete, Judge Karen Caldwell was confirmed by the Senate. Danny Reeves, another nominee for that same district, was able to have a hearing within

40 days of his file being completed, was voted out of Committee only a few weeks after that, and he was confirmed 69 days from the time all his paperwork was complete. Indeed, we proceeded to confirm the first two nominees to the bench of the Eastern District of Kentucky so quickly that they had to delay being sworn in and assuming their judicial duties in order to wind down their legal practices.

This stands in sharp contrast to the length of time it took to get nominees hearings and confirmations in the recent past. During the last six years of the Clinton Administration, it took an average of about 150 days to move a district court nominee to confirmation. I am proud that we have been able to do better since last July.

The hearing on the Bunning nomination included testimony by his home-state Senators as well as testimony by representatives from the American Bar Association's Standing Committee. While a majority of the ABA Committee found the nominee not qualified and a minority found him to be qualified for the federal bench, three United States District Court Judges and a former United States Attorney testified in support of his confirmation. Yesterday, the Senate acted to confirm the President's nomination, as we have with a number of other nominees who received mixed peer review ratings.

For 50 years, beginning with the Eisenhower Administration and including the Clinton Administration, the ABA had provided a valuable public service to Presidents as they determined whom to nominate to the federal bench. In addition, the Senate has had the benefit of the ABA peer reviews. No Senator is bound by the recommendations of the ABA.

As I have said before, it is unfortunate that President Bush decided to shift the ABA's role in the pre-nomination process, but I am grateful that the ABA has agreed to continue to provide their evaluations to the Senate Judiciary Committee. We have always valued their contribution to the process and the willingness of the members of the Standing Committee to volunteer their time, efforts and judgment to this important task.

I congratulate each of the successful nominees and their families on their Senate confirmations.

I intend to notice another confirmation hearing for judicial nominations for February 26. Even though this is a short month with a week's recess, the Committee will hold a second hearing involving judicial nominees in February. This will be the first time in four years that the Committee will have held two February hearings for judicial nominees.

THE SAFE AND FAIR DEPOSIT INSURANCE ACT OF 2002

Mr. REED. Mr. President, I rise in strong support of the Johnson-Hagel-Reed-Enzi Safe and Fair Deposit Insurance Act of 2002, SFDIA, and I urge my colleagues to support it. I am proud to be one of the authors of this legislation, as I believe it will continue to ensure a strong and safe insurance system for our banks, and most importantly for the consumers that put their trust in that system. The legislation before us also seeks to end the pro-cyclical method now in force, which tends to burden institutions in bad economic times, and not prepare for the future during good economic times. We need to change that, and I think this bill begins to finally address this important issue in a very thoughtful manner.

The bill that my colleagues and I have introduced has five major components. The first element addresses the most non-controversial aspect of this issue, and that is merging of the two insurance funds. This will obviously strengthen the reserve fund for all banks and savings institutions, rather than diffusing that strength between two funds. The second component is that of coverage limits. Although this issue has attracted quite a bit of discussion and controversy over the past few years, this is nonetheless an important issue for many banks and consumers alike. In this section, the legislation authorizes the level of general coverage to rise to $130,000, by indexing for inflation from 1974, when the level of coverage was at $40,000. Going forward, the bill proposes to index coverage for inflation every five years in increments of $10,000. The bill also suggests that coverage for retirement accounts be set at $250,000 now, and that those accounts also be subject to indexing in the future. Lastly, on coverage issues, the legislation would allow for additional coverage for municipal deposits beyond the $130,000 level.

The SFDI Act would also allow for greater flexibility for the FDIC to charge insurance premiums. Since 1996, the FDIC has been prohibited from charging premiums to banks that have the highest rating, as long as the reserve ratio was above the ''hard target'' of 1.25 percent. Our legislation would remove that prohibition, as well as effectively eliminating the hard target, and would instead substitute a range for the fund. Again, these actions will lend the FDIC the necessary flexibility to manage the funds in a much more institution-friendly manner, particularly by relieving pressure on them during the worst business cycles.

In addition, the FDIC will be able to give a one-time assessment credit to institutions, as well as allow for ongoing credits to manage the fund. These credits will in all likelihood give most institutions, if they are well-managed and well-capitalized, the ability to avoid premiums for several years down the road. The FDIC will also be authorized to provide cash rebates to institutions should the fund ever exceed 1.50 percent.

Although I would prefer to address the issue of coverage for municipal deposits in another context, I am confident that during the upcoming legislative process there will be a good debate on the issue, and the Senate will be able to work its will on the issue. I think it is important to note that the introduction of this bill will mark the beginning of a strong, vigorous and positive discussion on the vital issue of deposit insurance. This has become the cornerstone of our banking system's integrity, and it is imperative that the U.S. Congress insure that it remain strong, healthy, and workable for many years to come for both financial institutions and consumers alike.

FEDERAL EMPLOYEES DESERVE PAY PARITY

Mr. AKAKA. Mr. President, as the government moves to protect its citizens, harden its borders, and defends American interests abroad, I want to make sure that the Nation's Federal employees are given the resources and support needed to carry out these missions.

Numerous studies point to the government's inability to compete with the private sector as one reason why we are unable to attract and retain qualified Federal employees. With a few exceptions, since 1981, military and Federal personnel have received equal pay increases. Yet, the administration's FY03 budget calls for an across-the-board adjustment of only 2.6 percent, while the military would receive a 4.1 percent increase. The proposed 2.6 percent increase is less than the formula used by the Federal Employees Pay Comparability Act and fails to close the pay gap between Federal and private sector workers.

In my capacity as Chairman of both the Senate Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services and the Senate Armed Services Subcommittee on Readiness and Management Support, I am actively involved in issues relating to Federal employees. Our civilian workforce plays a significant role in the support of our service members on active duty, in the reserves, and serving with the National Guard. I support a cohesive and coordinated effort in safeguarding America and believe a strong civilian workforce is crucial to our success in protecting our country.

By 2005, over half the Federal workforce will be eligible to retire, and as long as fewer young people are choosing Federal service to fill these gaps, there should be a commitment from the highest levels of government to ensure that agencies are adequately staffed with the right people and the right skills to run the government in an effective and efficient manner.

The American people know that the war on terrorism will be a long struggle; a different kind of war with fronts both at home and abroad. Our civilian Federal workforce is on the front line of this war and must be prepared to respond to the possibility of attack. We

should not distinguish between our civilian and military workforces, both of whom serve their country with equal dedication.

ADDITIONAL STATEMENTS

NOMINATION OF JAMES GRITZNER

• Mr. GRASSLEY. Mr. President, I want to say a few words about James E. Gritzner, who was approved by the Senate last night to serve as United States District Judge for the Southern District of Iowa. I am pleased that the Senate was able to move swiftly on this judicial nomination. Jim Gritzner has extensive trial experience and is fully qualified to serve on the District Court. His reputation for being fair and evenhanded is something we expect of all judges, and he will be a great addition to the Southern District of Iowa.

By way of background for my colleagues, Mr. Gritzner received a Bachelors of Arts degree from Dakota Wesleyan University, a Masters of Arts degree from the University of Northern Iowa, and a law degree from Drake University Law School. His distinguished legal career includes having practiced with several Iowa law firms, most recently with the Des Moines, Iowa firm of Neymaster, Goode, Voights, West, Hansell & O'Brien.

In addition to being in private practice for over 20 years, Mr. Gritzner has had a long record of public service. He served as a member of the Iowa Board of Parole from 1980 to 1982. From 1985 to 1990, Mr. Gritzner was the primary prosecutor for the Committee on Professional Ethics and Conduct of the Iowa State Bar Association and the Client Security and Attorney Disciplinary Commission of the Iowa Supreme Court.

I am sure everyone would agree that these are excellent qualifications. Jim Gritzner will serve the Federal bench very well, and I am proud to have supported his nomination to the Southern District of Iowa.•

CALIFORNIA COASTAL PROTECTION AND LOUISIANA ENERGY ENHANCEMENT ACT

• Ms. LANDRIEU. Mr. President, I have joined my colleague, Senator BOXER, in introducing the California Coastal Protection and Louisiana Energy Enhancement Act. This legislation will add to the production of oil and gas off the Louisiana gulf coast while solving a difficult problem associated with production off the coast of California.

The Federal Government, through the Department of the Interior's Minerals Management Service, MMS, manages oil and gas exploration in all Federal waters from 3 miles beyond the coastline. For years, leases have been issued to companies, giving them the right to explore and produce on these lands. Companies bid on proffered leases at the MMS, then pay rental payments to the Federal Government to maintain their leases. Once oil or gas is flowing from Federal lands, companies pay a royalty on the production to the Federal treasury.

Between 1968 and 1984, the MMS awarded 40 leases off the coast of California to a number of different companies so that they could explore for oil and gas and bring these energy resources to market. The proven oil reserves under these leases are vast. Over the past 34 years, owners of the leases have been working through the processes of Federal and State government to bring production from these lands online, as was the original purpose of the lease sales. During this time, the owners have been paying annual rental payments to the Federal Government. To date, none of them are producing.

The people of California have become increasingly opposed to new oil and gas production off their coast. This opposition has created a dilemma for the Federal Government and the leaseholders because while the opposition of the people of California has made it more difficult to proceed with oil production, the ability to produce oil from these lands is exactly what the companies have been paying the Federal Government for all these years.

Senator BOXER and I have been working to solve this longstanding problem. The legislation we are introducing today will essentially move the investment these companies have made with the Federal Government from the California waters to the Federal waters in the central and western areas of the Gulf of Mexico. This investment will finally be put to the use for which it was originally intended, to provide a domestic source of energy for the United States. This will mean a more vibrant oil and gas industry in my state and more jobs for Louisianians. It will maintain the integrity of the MMS leasing process and the Federal contracts that have been in place these many years. Finally, it will assist the people of California in reaching their goal of no new oil production off their coastline.

The California Coastal Protection and Louisiana Energy Enhancement Act gives the California leaseholders the option to move their investments to the central and western Gulf of Mexico. If the leaseholders choose, they may receive credits for the money that has been paid to the Federal Government for the California leases, and any other money invested in developing the leases. These credits may be redeemable at the MMS for lease bonus and royalty payments for production in the Gulf of Mexico. participating companies would then surrender the California leases and agree not to bring any future legal actions against the government for their inability to go forward with production over the past 34 years. Finally, our bill takes the lands that were in the leases and creates an ecological preserve to protect traditional fishing areas and provide conservational scientific and recreational benefits.

About 65 percent of our Nation's energy needs are supplied by oil and natural gas. The waters of the Gulf of Mexico have proven to be a significant source of oil and natural gas and are predicted to remain so for the foreseeable future. While states such as Louisiana continue to welcome the development of Federal crude oil and natural gas resources in the Gulf of Mexico, this development is accompanied by adverse impacts on the infrastructure and public service needs of States, counties and local communities that ''host'' the development of these Federal sources. With the rest of the country consistently turning to the waters of the central and western Gulf of Mexico for oil and gas production, it is long past time to share a meaningful portion of the revenues generated annually from Federal offshore crude oil and natural gas resources with the coastal states that serve as the platform for this development: Louisiana, Texas, Mississippi and Alabama.

I believe this bill is a creative solution to a difficult problem that has been left unattended for too many years. I commend my colleague, Senator BOXER, for taking a leading role with me in crafting this legislation. I hope my colleagues will join us in supporting this bill.•

WICHITA HEIGHTS HIGH SCHOOL

• Mr. BROWNBACK. Mr. President, I would like to take this moment to recognize the class from Wichita Heights High School which will be representing the State of Kansas in the 2002 national finals of the We the People . . . The Citizen and the Constitution program.

On May 4–6, 2002, more than 1,200 students from across the United States will visit Washington, DC, to take part in this competition, which is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. This 3-day competition, administered by the Center for Civic Education, is modeled after hearings in the U.S. Congress and consists of oral presentations by high school students before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their constitutional knowledge.

I am very pleased to see these young people advocating the fundamental ideals that identify us as a people and bind us together as a Naiton. I am proud that this class from Wichita Heights High School will be representing Kansas on the national level in this worthy endeavor. I wish their entire team the best success at the We the People . . . national finals this May.•

GUNS AND DOMESTIC VIOLENCE

● Mr. LEVIN. Mr. President, according to the Office of Justice Programs, 40 percent of women killed with firearms are murdered by an intimate partner. In 1996, Congress passed legislation to deny firearms purchases to individuals who were under a domestic violence restraining order or convicted of a domestic violence misdemeanor. Despite the passage of this law many people are slipping through the system. For example, according to a November 1999 Washington Post article, a background check failed to discover that a Maryland man was the subject of a domestic violence restraining order that his wife had obtained. As a result, he was able to purchase a gun and he later shot his 3-year-old daughter and 2-year-old son.

To help prevent such tragedies, Congress established the National Criminal History Improvement Program in 1995 to provide funding to assist States in compiling criminal records and establishing identification systems as well as developing a comprehensive national record system. One of the goals of the NCHIP program is to ensure that accurate records are available to law enforcement to identify ineligible firearm purchasers. The NCHIP program has put special emphasis on ensuring that domestic violence-related offenses are included in criminal records. As the Washington Post article suggests, there is still work to be done. In fact, according to a January 2002 study released by Americans for Gun Safety, only 30 States have automated records of both domestic violence misdemeanors and domestic violence restraining orders. Fifteen States have no automated records of domestic violence misdemeanors and 13 States have no automated records of domestic violence restraining orders.

I have long supported programs that will ensure that guns do not get into the hands of criminals, as well as individuals under domestic violence restraining orders. The NICS system of background checks for gun purchases has already blocked more than 400,000 gun sales to ineligible persons. Continuing the NCHIP grant program will help make America safer by ensuring that the criminal background information is complete, accurate and accessible. This improves our ability to prevent people who commit violent acts against their family from purchasing firearms.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in September 1997 in Waupaca, WI. A gay man was beaten because of his sexual orientation. The assailants, Jeffery S. Schucknecht, 26, and Robert G. Guyette, 23, were charged with felony battery and a hate crime in connection with the incident. I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.●

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 appropriate committees.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs:

Report to accompany S. 1857, A bill to Encourage the Negotiated Settlement of Tribal Claims. (Rept. No. 107–138).

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. WARNER:

S. 1957. A bill to amend the Internal Revenue Code of 1986 to provide for additional designations of renewal communities; to the Committee on Finance.

By Mr. MCCAIN:

S. 1958. A bill to provide a restructured and rationalized rail passenger system that provides efficient service on viable routes; to eliminate budget deficits and management inefficiencies at Amtrak through the establishment of an Amtrak Control Board; to allow for the privatization of Amtrak; to increase the role of State and private entities in rail passenger service; and, to promote competition and improve rail passenger service opportunities; to the Committee on Commerce, Science, and Transportation.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1959. A bill to direct the Secretary of the Interior to conduct a study of the former Eagledale Ferry Dock in the State of Washington for potential inclusion in the National Park System; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. FITZGERALD, and Mr. JOHNSON):

S. 1960. A bill to amend the Biomass Research and Development Act of 2000 to encourage production of biobased energy products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM (for himself, Mr. CRAPO, Mr. JEFFORDS, and Mr. SMITH of New Hampshire):

S. 1961. A bill to improve financial and environmental sustainability of the water programs of the United States; to the Committee on Environment and Public Works.

By Mr. WYDEN (for himself, Mrs. MURRAY, and Mr. SMITH of Oregon):

S. 1962. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry for the rollover of Capital Construction Funds to individual retirement plans; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 1963. A bill to prohibit the use of arsenic-treated lumber to manufacture playground equipment, children's products, fences, walkways, and decks, and for all other residential purposes, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. COLLINS (for herself and Mr. REED):

S. Res. 211. A resolution designating March 2, 2002, as ''Read Across America Day''; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. Con. Res. 98. A concurrent resolution commemorating the 30th anniversary of the inauguration of Sino-American relations and the sale of the first commercial jet aircraft to China; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 77

At the request of Mr. DASCHLE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 77, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 969

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 969, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 1084

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1084, a bill to prohibit the importation

into the United States of diamonds unless the countries exporting the diamonds have in place a system of controls on rough diamonds, and for other purposes.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1860

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1860, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 1957. A bill to amend the Internal Revenue Code of 1986 to provide for additional designations of renewal communities; to the Committee on Finance.

Mr. WARNER. Mr. President, I am pleased today to introduce legislation that will provide for greater economic growth, job creation and improve the availability of affordable housing in some of our Nation's most distressed communities. The legislation calls for the designation of a second round of Renewal Communities.

The Renewal Communities program is an economic development initiative that was included in the Fiscal Year 2001 Consolidated Appropriations Act. The communities designated under the program benefit from a variety of tax incentives designed to attract new companies and enhance business opportunities in an area. Wage credits, a zero capital gains rate on new investments and similar tax breaks for business related expenditures will augment the efforts of State and local governments to promote job growth and restore economic stability in their communities.

The Consolidated Appropriations Act signed into law on December 21, 2000, provided for the designation of 40 Renewal Communities. The Department of Housing and Urban Development was responsible for the selection and designation of the new RCs. The Department announced the list of 40 communities, which will share over $17 billion in tax incentives, on January 24, 2002.

The designations are based on poverty rates, median income, and unemployment rates in the community. The most recent Department of Commerce census data available during the application process was from 1990. This was an issue of timing as passage of the legislation overlapped with the compilation of new census data in 2000.

The use of the 1990 census data, however, severely limited the ability of many cities and localities which may be eligible based on the most recent data. The 1990 data does not reflect the economic shifts which have taken place over the last decade throughout the country.

In the Commonwealth of Virginia, many communities have been devastated economically by plant closings since the census in 1990. The unemployment figures continue to rise when more businesses are forced to close down as the adverse financial effects begin to filter through the community.

My legislation would provide for the designation of an additional twenty renewal communities with the requirement that the most recent 2000 census data would be used. I believe that a second round of Renewal Community designations would be appropriate and fair to those communities excluded by the limits of timing out of their control.

We cannot move forward as a Nation when the gap in the economy stability of our local communities grows deeper and they are left behind. This is something the Federal Government can do to stimulate the economy from the ground up and at the same time help those who need it most.

I encourage my colleagues to support this initiative. 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. 1957

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

SECTION 1. ADDITIONAL DESIGNATIONS OF RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400E of the Internal Revenue Code of 1986 (relating to designation of renewal communities) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) ADDITIONAL DESIGNATIONS PERMITTED.—

''(1) IN GENERAL.—In addition to the areas designated under subsection (a), the Secretary of Housing and Urban Development may designate in the aggregate an additional 20 nominated areas as renewal communities under this section, subject to the availability of eligible nominated areas. Of that number, not less than 5 shall be designated in areas described in subsection (a)(2)(B).

''(2) PERIOD DESIGNATIONS MAY BE MADE AND TAKE EFFECT.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 2003. Subject to subparagraphs (B) and (C) of subsection (b)(1), such designations shall remain in effect during the period beginning on January 1, 2003, and ending on December 31, 2010.

''(3) MODIFICATIONS TO ELIGIBILITY DETERMINATIONS.—The rules of this section shall apply to designations under this subsection, except that population and poverty rate shall be determined by using the most recent census data available.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

By Mr. MCCAIN:

S. 1958. A bill to provide a restructured and rationalized rail passenger system that provides efficient service on viable routes; to eliminate budget deficits and management inefficiencies at Amtrak through the establishment of an Amtrak Control Board; to allow for the privatization of Amtrak; to increase the role of State and private entities in rail passenger service; and, to promote competition and improve rail passenger service opportunities; to the Committee on Commerce, Science, and Transportation.

• Mr. MCCAIN. Mr. President, the time has come for us to have an open debate to consider the future of rail passenger service in this Nation. Given Amtrak's financial situation, which is extremely precarious, I strongly believe we must work together to pass legislation this year that will provide for a restructured, revitalized, and streamlined rail passenger network. This will be no easy task. It will take commitments by all parties, including the Administration, Congress, Amtrak, states and municipalities, and the private sector.

No one can argue with the fact that Amtrak is in a financial crisis, with growing and substantial debt obligations already totaling over $3.3 billion. The Department of Transportation Inspector General, DOT–IG, issued a report just two weeks ago which found that Amtrak experienced its largest losses in history in Fiscal Year 2002. Specifically, the DOT–IG found ''Amtrak lost $1.1 billion last year'' and ''Amtrak is no closer to operating self-sufficiency now than it was in 1997.''

The Amtrak Reform and Accountability Act of 1997, provided Amtrak with the statutory reforms Amtrak said were needed to enable it to address its financial and operational problems existing at the time. In turn, the Act directed Amtrak to reach operational self-sufficiency five years after enactment, which is December 2, 2002. The Act also established the Amtrak Reform Council, ARC, to oversee Amtrak and notify the Congress if it found Amtrak would not be able to meet its statutory obligations.

Despite repeated press statements and testimony by Amtrak officials over the past four years that Amtrak was well on its way to fulfilling its statutory directives, on November 9, 2001, the ARC issued a finding that Amtrak will not be operationally self-sufficient as required by law. The ARC found there are major inherent flaws and weaknesses in Amtrak's institutional design and that it must be restructured. The recent DOT–IG report confirmed the ARC's finding that Amtrak would not meet its statutory mandate.

Finally, two weeks ago, even Amtrak officials admitted it cannot live up to the claims they had been making. At a recent press conference Amtrak's President stated, ''Everybody knows that you can't make a profit while running a network of unprofitable trains''. Unfortunately, Amtrak officials are

seeking to place blame for its financial problems everywhere other than where it most justly belongs.

As I mentioned, the 1997 Reform Act provided Amtrak with the tools it said it needed to reinvent itself. It was provided labor, liability, and procurement reforms. The Act even eliminated the mandated route structure established in the 1970 act that created Amtrak, and authorized Amtrak to run like a private business.

Following the Senate's passage of the Act in 1997, Amtrak's President at the time, Tom Downs, sent a letter dated November 5, 1997 to Senator HOLLINGS and myself praising the compromise legislation. He stated that, ''enactment of the Amtrak Reform and Revitalization Act of 1997 would be the single most significant action the Congress can take to aid Amtrak in achieving operating self-sufficiency by 2002.'' Mr. Downs further commended ''The legislation reforms contained in the bill will allow Amtrak to operate in a more businesslike, cost effective manner, thus allowing greater productivity and increased savings.''

Although Amtrak has received over $5 billion in Federal assistance since the reform bill's enactment, and received the authority to implement management and structural changes, little if anything has been accomplished since the Reform Act's enactment. Amtrak loses money on almost all of its 41 routes, but instead of cutting even one unprofitable route, Amtrak added routes. One such route initiated in Janesville, WI, resulted in a per passenger subsidy of over $1,000.00. Where is the rationale in such a business decision? Moreover, Amtrak's debt load has tripled since we approved the Reform Act, and now amounts to over $3.3 billion. Clearly, Amtrak officials did not take the statutory mandates seriously.

Today, I am introducing legislation to fundamentally transform rail passenger transportation in America. The bill offers a new approach to reform Amtrak's 30-year subsidy program that has funded rail passenger service. It is designed to promote rail passenger service on viable routes or where States will provide support when it is considered a necessary form of public transportation. That does not equate to a route in every Congressional district and may not even equate to a route in every State, but nor, it should be noted, does the present ''national system.''

The legislation I am offering today is one approach for how our Nation's rail passenger system can be permitted to evolve. I recognize that it may not garner the support of every member, but I encourage my colleagues to approach the debate on the future of rail passenger service with an open mind. The American public demands more than the status quo. We should as well. The public's expectations must be balanced with the level of financial commitment that the Nation can afford. I ask that a summary of the Rail Passenger Improvement Act of 2002 be printed in the RECORD immediately following my remarks.

I don't believe that the measure I am introducing could be the only approach that Congress considers. There are many proposals and ideas that merit our consideration. For example, on February 7th, the Amtrak Reform Council submitted its report on a restructuring and rationalization plan. I hope the Congress will give careful consideration to the ARC's proposal. Other ideas to restructure Amtrak's route system include the creation of a Route Closure Commission modeled after the Department of Defense's Base Realignment and Closure Commission. This is an idea that has been raised in recent years and should not be disregarded. Above all, we must get to work now and determine how best to address Amtrak's financial and operational crisis.

While it might seem easier to simply throw more money at Amtrak instead of making tough policy decisions, we would be failing in our Congressional responsibilities if we were to do this. To put rail passenger service back on track in this country, we need to address a number of tough questions. For example, what is the future for intercity rail passenger transportation? Where does it attract passengers and where doesn't it? Does rail passenger service have to equate to ''Amtrak'' or can we accept the fact that after 30 years, it is time to find a new approach? Where might high-speed rail service actually attract enough passengers to be economically viable? How does it fit into our national transportation system? What financial obligation will we be imposing on American taxpayers to pay for rail passenger service and what can they realistically expect for their payments?

I have continually doubted Amtrak could live up to the promises it has made over the years. I reached this conclusion after years of listening to promises from Amtrak officials about what it could deliver if Congress gave it more money. Those promises have been broken time after time. There has been an endless flow of subsidy requests from Amtrak since its creation 30 years ago, even though it was to be free of all Federal assistance two years after it was established. Instead, Amtrak has received over $25 billion in direct subsidies.

The ARC, the DOT–IG, the General Accounting Office (GAO), and others warned us that Amtrak was not going to live up to the rosy scenarios it had been painting over the past several years. Ironically, while we are criticizing private auditors for failing to ensure disclosure of the true financial picture of Enron, Congress has had clear indication from public auditors that Amtrak was not financially solvent but chose to ignore those warnings. Shouldn't we halt the double standard with respect to our reaction to public and private audit findings?

We all need to face the fact that Amtrak is in dire financial straits and action must be taken once and for all to address the underlying problems with Amtrak. The findings presented by the ARC and the DOT–IG make it clear that Amtrak's Board and management have been unable to execute the changes that need to be taken to turn Amtrak's finances around. As the DOT–IG recently stated: ''Amtrak is no closer to operating self-sufficiency now than it was in 1997.''

Amtrak's management has recently started to question publicly the statutory requirement for Amtrak to achieve operational self-sufficiency. At a press conference held last week when Amtrak admitted it was not living up to its repeated claims of success, Amtrak's President referred to the self-sufficiency deadline as an ''impractical, inappropriate and destructive concept to move forward with.'' I find this statement shockingly untimely.

In the four years that have passed since the Reform Act became law, Amtrak officials have repeatedly said they were on the ''glide-path to operational self-sufficiency.'' Not once in testimony before Congress did Amtrak officials raise concerns now held by Amtrak's President that the once highly regarded Reform Act was no more than an ''impractical, inappropriate and destructive concept'' that would hamper Amtrak's ability to produce results and turn Amtrak around. So I have to ask, why now? Were these same views held by Amtrak officials during the reform bill's enactment? That would not appear to be the case given the November 1997 letter I quoted from earlier. Why haven't we heard Mr. Warrington's critical views until now?

Again, the Reform Act provided the statutory reforms that Amtrak requested so it could operate more like a private business. Why has its President suddenly decided to call its mandates into question? Maybe it's because management has made no progress towards meeting the requirements mandated by the law, requirements that Amtrak agreed to in exchange for the reforms it requested and was granted? Requirements, that until now, Amtrak said it would meet.

Since we now know Amtrak officials cannot make the tough decisions necessary to improve Amtrak's operating and financial condition, the legislation I am proposing creates an Amtrak Control Board, modeled after the D.C. Control Board that was so successful in turning around the financial crisis of the Government of the District of Columbia. The Amtrak Control Board would be directed to help address Amtrak's financial crisis and facilitate Amtrak's privatization.

Moreover, I believe we need to allow the States to take a greater role in determining where rail passenger service should be provided. Perhaps it is only in the Northeast, or maybe just on State-supported corridors. To help States retain passenger rail service

where they believe it is needed, I also think that we should allow the States to spend their Federal transportation dollars on rail passenger service.

In some areas of the country, such as the Northeast and on the West Coast where service is supported by State contributions, rail passenger service seems to be working. We cannot ignore the fact, however, that all but two of Amtrak's intercity lines operate at a substantial financial loss. And while Amtrak has experienced an increase in its ridership, the actual ridership numbers are dismal compared to other passenger modes, including intercity bus transportation and air travel. After 30 years and over $25 billion of taxpayers' investment, Amtrak is used by less than 1 percent of the traveling public.

Our urban areas are facing ever-increasing transportation congestion. Americans are spending more and more time sitting in traffic as they try to get to and from work. And each and every one of us has experienced first hand the frustrations of flight delays due to new security measures and capacity limitations in our aviation system. It is our responsibility to work to remedy these problems by developing and enacting sound federal transportation policies.

Amtrak is a failed experiment. While the legislation I am offering may not be the approach the majority of the members will support, I assure my colleagues that I will do everything in my power to halt the historical authorization pattern that has taken place for 30 years. I will strongly oppose any measure simply to reauthorize Amtrak in exchange for Amtrak promises. If we do that again, in a few years Amtrak will be back again explaining why it was unable to fulfill its promises and Amtrak will be seeking yet even more money and making even more promises. This same pattern has continued for 30 years.

The Rail Passenger Service Act of 1970, which created the National Rail Passenger Corporation, also known as Amtrak, to free the freight industry from the burden of running passenger trains, was enacted with the intent to provide Amtrak Federal support for only two years. Clearly, that did not occur. After receiving appropriations for $40 million in direct grants, $100 million in loan guarantees, in addition to capital acquired from participating railroads, Amtrak was unable to fulfill the intent of the authorizing legislation. Two years later, Amtrak was back before Congress asking for more money in exchange for more promises.

By 1978, after four trips to Congress to ask for more Federal money, Amtrak had received $2.5 billion in federal funding. But that level of funding was still not enough. When Amtrak came back seeking more Federal assistance, Congress responded like it always had. It passed legislation authorizing millions for operating, capital and debt reduction expenses. In exchange for this funding, Amtrak agreed to be operated and managed as a for-profit corporation and to turn around its money losing ways. Again, Amtrak failed to fulfill its promises.

This pattern has continued during the past 30 years. Amtrak has come to Congress year after year seeking a handout. Each time, Amtrak has made promises in return for more federal assistance. Each time, Amtrak has failed to achieve what was expected. Enough is enough.

It is interesting to note that before the 1978 law was enacted, the GAO warned that Amtrak would have to make serious cuts in its route structure if it was to avoid continual dependence on Federal subsidies. And here we are nearly 25 years later and the GAO and the DOT–IG are repeating these same realities. Is the Congress finally going to give credence to these auditors' findings?

If rail passenger service is ever going to be successful, we must take action to provide for a restructured and rationalized system. We need to hear from the Administration, the States, and the American public in order to develop sound Federal policy to permit safe, efficient, and cost-effective rail passenger service in areas that can attract riders. Now is the time for all interested parties to come together and chart a new course for intercity rail passenger transportation.

The summary follows.

THE RAIL PASSENGER SERVICE IMPROVEMENT ACT—SUMMARY OF MAJOR PROVISIONS

Purpose: to enable the emergence of a new rail passenger system that would be overseen by the Department of Transportation, but operated by competing franchises, including Amtrak; to require Amtrak's restructuring, financial stabilization and privatization through the creation of an Amtrak Control Board; and to require States to play a bigger role with regard to routing decisions and financial responsibilities. Specifically the legislation:

Directs the Secretary of Transportation to establish a Rail Passenger Development and Franchising Office within the Federal Railroad Administration (FRA). Beginning October 1, 2003, the Secretary would be authorized to contract out rail passenger service to franchises that meet specified safety and liability requirements, provided such operations would not result in a significant downgrade in rail freight service. Franchises would be required to demonstrate efforts to reach mutual agreements with freight carriers to obtain trackage access prior to being awarded a contract.

Directs Amtrak to restructure into three separate subsidiaries to be managed as for-profit businesses with transparent accounting systems: Amtrak Operations, Amtrak Maintenance, and Intercity Rail Reservations. Each subsidiary would be privatized no later than four years after enactment.

Establishes an Amtrak Control Board, modeled after the DC Control Board, to help address Amtrak's financial crisis. The Amtrak Control Board would direct Amtrak's operational restructuring, approve budgets and financial plans, and oversee privatization.

Requires States to play a greater role, both in route decisions and financial contributions, to allow for a more utilized route system to evolve, with service provided on viable routes or where States contribute to cover operating losses. Beginning October 1, 2003, Amtrak would halt service over any route where revenues do not cover expenses unless states contribute financial support to cover losses.

Gives States flexibility to use highway trust fund dollars on rail passenger service at each state's discretion.

Authorizes funding to address rail passenger security and tunnel life-safety needs.

Authorizes funding for Amtrak operating and Railroad Retirement obligations on a reduced sliding scale. Authorizes funding for the Secretary of Transportation to address rail passenger capital costs and the backlog of infrastructure investment identified by the DOT-Inspector General to bring the Northeast Corridor up to a ''state of good repair.'' Other users and states along the corridor would also contribute to capital costs, much like States must contribute toward highway and airport infrastructure. In exchange for eliminating financial obligations, Amtrak must give up rights and ownership to the Northeast Corridor for which the Secretary already holds a 999-year mortgage.●

By Mr. HARKIN (for himself, Mr. FITZGERALD, and Mr. JOHNSON):

S. 1960. A bill to amend the Biomass Research and Development Act of 2000 to encourage production of biobased energy products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. HARKIN. Mr. President, I am introducing today the Biobased Energy Incentives Act of 2002. I am pleased to be joined by Senators FITZGERALD and JOHNSON. This legislation amends the Biomass Research and Development Act of 2000 and establishes a biobased energy incentive program within the Department of Agriculture.

The program provides payments to eligible biofuels producers through the Commodity Credit Corporation for using certain commodities to produce ethanol and biodiesel. All ethanol and biodiesel producers will be eligible to participate in the program. However, payment levels will be a little higher for smaller producers, giving them a better chance to compete with their larger counterparts. Payments to any one producer will be capped at 7 percent of the total funds made available for a fiscal year.

This legislation comes at the right time. The Department of Agriculture has run a bioenergy program on a pilot basis for the past two years. It has shown very promising initial results. In Iowa, for instance, the program has helped bring down the price of soy diesel. Cedar Rapids now has dozens of vehicles that run on a blend of soy and regular diesel. Over the same time that this program has operated, the U.S. ethanol industry has established production records almost every month. Nearly 20 new ethanol plants began construction last year, assuring continued expansion of the industry.

Yet there is no guarantee the Department will continue the program. A continuation is not in the Administration's budget proposal for fiscal year 2003. We can't afford to see this type of initiative flounder or, worse yet, end.

Our bill, if passed, will require the Department of Agriculture to run a bioenergy program indefinitely with secure funding.

The benefits of this legislation are obvious. Increased renewable fuel production lessens our dependence on foreign oil, provides environmental and public health gains, bolsters farm income, creates jobs and boosts economic growth, especially in rural areas. This also contributes to a sound homeland security strategy. The Nation must become energy independent, and domestically produced renewable fuels, along with other forms of renewable energy like wind power and biomass, play an important part in this endeavor.

I want to thank Senator FITZGERALD and Senator JOHNSON for co-sponsoring this legislation with me. Their leadership in this area will be essential in moving the bill forward. I am hopeful we can pass this bill quickly to help secure a brighter future for our nation's farmers and fellow citizens.

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

The bill follows.

S. 1960

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 ''Biobased Energy Incentive Act of 2002''.

SEC. 2. PRODUCTION OF BIOBASED ENERGY PRODUCTS.

The Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) by redesignating section 310 as section 311; and

(2) by inserting after section 309 the following:

''SEC. 310. PRODUCTION OF BIOBASED ENERGY PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) BIOBASED ENERGY PRODUCT.—The term 'biobased energy product' means biodiesel or ethanol fuel.

''(2) BIODIESEL.—The term 'biodiesel' means a monoalkyl ester that meets the requirements of ASTM D6751.

''(3) ELIGIBLE COMMODITY.—The term 'eligible commodity' means wheat, corn, grain sorghum, barley, oats, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard, crambe, sesame seed, cottonseed, and cellulosic commodities (such as hybrid poplars and switch grass).

''(4) ELIGIBLE PRODUCER.—The term 'eligible producer' means a producer that—

''(A) uses an eligible commodity to produce a biobased energy product; and

''(B) enters into a contract with the Secretary under subsection (b)(2).

''(5) NEW PRODUCER.—The term 'new producer' means an eligible producer that has not used an eligible commodity to produce a biobased energy product during the preceding fiscal year.

''(b) BIOBASED ENERGY INCENTIVE PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a biobased energy incentive program under which the Secretary shall make payments to eligible producers to promote the use of eligible commodities to produce biobased energy products.

''(2) CONTRACTS.—

''(A) IN GENERAL.—To be eligible to receive a payment, an eligible producer shall enter into a contract with the Secretary under which the producer shall agree to increase the use of eligible commodities to produce biobased energy products during 1 or more fiscal years.

''(B) QUARTERLY PAYMENTS.—Under a contract—

''(i) the eligible producer shall agree to increase the use of eligible commodities to produce biobased energy products during each fiscal year covered by the contract; and

''(ii) the Secretary shall make payments to the eligible producer for each quarter of the fiscal year.

''(3) AMOUNT.—Subject to paragraphs (6) through (8), the amount of a payment made to an eligible producer for a fiscal year under this subsection shall be determined by multiplying—

''(A) the payment quantity for the fiscal year determined under paragraph (4); by

''(B) the payment rate determined under paragraph (5).

''(4) PAYMENT QUANTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the payment quantity for payments made to an eligible producer for a fiscal year under this subsection shall equal the difference between—

''(i) the quantity of eligible commodities that the eligible producer agrees to use, under the contract entered into with the Secretary, to produce biobased energy products during the fiscal year; and

''(ii) the quantity of eligible commodities that the eligible producer used to produce biobased energy products during the preceding fiscal year.

''(B) NEW PRODUCERS.—The payment quantity for payments made to a new producer for the first fiscal year of a contract under this subsection shall equal 25 percent of the quantity of eligible commodities that the eligible producer uses to produce biobased energy products during the fiscal year.

''(5) PAYMENT RATE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the payment rate for payments made to an eligible producer under this subsection for the use of an eligible commodity shall be determined by the Secretary to compensate the eligible producer for the local value of—

''(i) in the case of corn, 1 bushel of corn for each 3 bushels of additional corn that is used to produce a biobased energy product; and

''(ii) in the case of each other eligible commodity, an equivalent quantity determined by the Secretary.

''(B) SMALL-SCALE PRODUCERS.—The payment rate for payments made to an eligible producer that has an annual capacity of less than 60,000,000 gallons of biobased energy products shall be at least 25 percent higher than the payment rate for other eligible producers, as determined by the Secretary.

''(6) PRORATION.—If the amount made available for a fiscal year under subsection (d)(2)(A) is insufficient to allow the payment of the amount of the payments that eligible producers (that apply for the payments) otherwise would have a right to receive under this subsection, the Secretary shall prorate the amount of the funds among all such eligible producers.

''(7) OVERPAYMENTS.—If the total amount of payments that an eligible producer receives for a fiscal year under this section exceeds the amount the eligible producer should have received under this subsection, the producer shall repay the amount of the overpayment to the Secretary, plus interest (as determined by the Secretary).

''(8) LIMITATION.—No eligible producer shall receive more than 7 percent of the total amount made available for a fiscal year under subsection (d)(2)(A).

''(9) RECORDKEEPING AND MONITORING.—To be eligible to receive a payment under this subsection, an eligible producer shall—

''(A) maintain for at least 3 years records relating to the production of biobased energy products; and

''(B) make the records available to the Secretary to verify eligibility for the payments.

''(10) OTHER REQUIREMENTS.—To be eligible to receive a payment under this subsection, an eligible producer shall meet other requirements of Federal law (including regulations) applicable to the production of biodiesel or ethanol fuel.

''(c) AVAILABILITY OF BIOBASED ENERGY PRODUCTS.—The Secretary shall establish a program to encourage wider availability of biobased energy products to consumers of gasoline and diesel fuels.

''(d) FUNDING.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

''(2) FISCAL YEAR LIMITATIONS.—The amount of funds of the Commodity Credit Corporation used to carry out this section shall not exceed—

''(A) in the case of subsection (b), $150,000,000 for fiscal year 2003 and each subsequent fiscal year; and

''(B) in the case of subsection (c), $10,000,000 for fiscal year 2003 and each subsequent fiscal year.''.●

By Mr. GRAHAM (for himself, Mr. CRAPO, Mr. JEFFORDS, and Mr. SMITH of New Hampshire):

S. 1961. A bill to improve financial and environmental sustainability of the water programs of the United States; to the Commerce on Environment and Public Works.

● Mr. GRAHAM. Mr. President, I ask that the text of the bill be printed in the Record.

S. 1961

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 ''Water Investment Act of 2002''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
TITLE I—FEDERAL WATER POLLUTION CONTROL ACT MODIFICATIONS
Sec. 101. Definitions.
Sec. 102. Funding for Indian programs.
Sec. 103. Requirements for receipt of funds.
TITLE II—SAFE DRINKING WATER ACT MODIFICATIONS
Sec. 201. Planning, design, and preconstruction costs.
Sec. 202. State Revolving Loan Fund.
Sec. 203. Additional subsidization.
Sec. 204. Private utilities.
Sec. 205. Competition requirements.
Sec. 206. Technical assistance for small systems.
Sec. 207. Authorization of appropriations.
TITLE III—INNOVATIONS IN FUND AND WATER QUALITY MANAGEMENT
Sec. 301. Transfer of funds.
Sec. 302. Demonstration program for water quality enhancement and management.
Sec. 303. Rate study.
Sec. 304. Effects on policies and rights.
TITLE IV—WATER RESOURCE PLANNING
Sec. 401. Findings.

Sec. 402. Definition of Secretary.
Sec. 403. Actions.
Sec. 404. Report to Congress.
Sec. 405. Authorization of appropriations.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to modernize State water pollution control revolving funds and the allocation for those funds to ensure that the funds distributed reflect water quality needs;

(2) to streamline State water pollution control assistance programs and State drinking water treatment assistance programs to maximize use of Federal funds and encourage maximum efficiency for States and localities;

(3) to provide additional structure to the water supply research conducted in the United States; and

(4) to ensure that the Federal Government is performing the appropriate role in analyzing regional and national water supply trends.

TITLE I—FEDERAL WATER POLLUTION CONTROL ACT MODIFICATIONS

SEC. 101. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(24) DISADVANTAGED COMMUNITY.—The term 'disadvantaged community' means a community or entity that meets affordability criteria established, after public review and comment, by the State in which the community or entity is located.

''(25) SMALL TREATMENT WORKS.—The term 'small treatment works' means a treatment works (as defined in section 212) serving a population of 10,000 or less.''.

SEC. 102. FUNDING FOR INDIAN PROGRAMS.

Section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) is amended by striking subsection (c) and inserting the following:

''(c) RESERVATION OF FUNDS.—

''(1) IN GENERAL.—For fiscal year 1987 and each fiscal year thereafter, the Administrator shall reserve, before allotments to the States under section 604(a), not less than 0.5 percent nor more than 1.5 percent of the funds made available under section 207.

''(2) USE OF FUNDS.—Funds reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve—

''(A) Indian tribes;

''(B) former Indian reservations in Oklahoma (as determined by the Secretary of the Interior); and

''(C) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).''.

SEC. 103. REQUIREMENTS FOR RECEIPT OF FUNDS.

(a) GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.—Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended by striking ''for providing assistance (1)'' and all that follows and inserting the following: ''for providing assistance for eligible projects in accordance with section 603(c).''.

(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (c) and inserting the following:

''(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—Funds available to each State water pollution control revolving fund shall be used only for—

''(A) providing financial assistance to a municipality, intermunicipal, interstate, or State agency, or private utility, for construction (including costs for planning, design, associated preconstruction, and necessary activities for siting the facility and related elements) of treatment works (as defined in section 212);

''(B) implementation of a management program established under section 319;

''(C) development and implementation of a conservation and management plan under section 320;

''(D) water conservation projects or activities that provide 1 or more water quality benefits; or

''(E) reuse, reclamation, or recycling projects that provide 1 or more water quality benefits.

''(2) MAINTENANCE OF FUND.—

''(A) IN GENERAL.—The fund shall be established, maintained, and credited with repayments.

''(B) AVAILABILITY.—Any balances in the fund shall be available in perpetuity for providing financial assistance described in paragraph (1).

''(3) APPROACHES.—Projects eligible to receive assistance from a State water pollution control revolving fund under this title may include projects that use 1 or more nontraditional approaches (such as land conservation, low-impact development technologies, redevelopment of waterfront brownfields, watershed management actions, decentralized wastewater treatment innovations, and other nonpoint best management practices).''.

(c) EXTENSION OF LOANS; TYPES OF ASSISTANCE.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking '', at terms not to exceed 20 years'';

(B) by striking subparagraph (B) and inserting the following:

''(B)(i) annual principal and interest payments shall commence not later than 1 year after the date of completion of any project for which the loan was made; and

''(ii) except as provided in subparagraph (C), each loan shall be fully amortized not later than 20 years after the date of completion of the project for which the loan is made;'';

(C) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(D) by inserting after subparagraph (B) the following:

''(C) in the case of a disadvantaged community, a State may provide an extended term for a loan if the extended term—

''(i) terminates not later than the date that is 30 years after the date of completion of the project; and

''(ii) does not exceed the expected design life of the project.'';

(E) in subparagraph (D) (as redesignated by subparagraph (C)), by inserting '', or, in the case of a privately owned system, demonstrate that adequate security exists,'' after ''revenue''; and

(F) in subparagraph (E) (as redesignated by subparagraph (C)), by inserting ''State loan'' before ''fund'';

(2) in paragraph (6), by striking ''and'' at the end;

(3) by redesignating paragraph (7) as paragraph (10);

(4) by inserting after paragraph (6) the following:

''(7) subject to subsection (e)(2), by a State to provide additional subsidization (including forgiveness of principal) to 1 or more treatment works for use in developing technical, managerial, and financial capacity in accordance with subsection (i);

''(8) by a State to provide additional subsidization (including forgiveness of principal) to 1 or more treatment works for a purpose other than a purpose specified in paragraph (7) or (9), except that—

''(A) for the first fiscal year that begins after the date of enactment of this paragraph and each fiscal year thereafter, the total amount of subsidization provided by a State under this paragraph shall not exceed 15 percent of the amount of all capitalization grants received by the State for the fiscal year;

''(B) notwithstanding section 204(b)(1), the State, as part of an assistance agreement between the State and each applicable treatment works, shall ensure, to the maximum extent practicable, that additional subsidization provided under this paragraph is directed through the user charge rate system to disadvantaged users within the residential user class of the community (as defined by the State based on affordability criteria and after an opportunity for public review and comment) in which the treatment works is located; and

''(C) a community that receives assistance as a disadvantaged community under paragraph (9) shall not be eligible for assistance under this paragraph;

''(9) subject to subsection (e)(2), by the State to provide additional subsidization (including forgiveness of principal) to a disadvantaged community, or to a community or entity that the State expects to become a disadvantaged community as the result of a proposed project, that receives a loan from the State under this title; and''; and

(5) in paragraph (10) (as redesignated by paragraph (3)), by striking ''that such amounts shall not exceed 4'' and inserting ''that, beginning in fiscal year 2003, those amounts shall not exceed 5''.

(d) LIMITATIONS.—Section 603(e) of the Federal Water Pollution Control Act (33 U.S.C. 1383(e)) is amended—

(1) by striking ''(e)'' and all that follows through ''If a State'' and inserting the following:

''(e) LIMITATIONS.—

''(1) PREVENTION OF DOUBLE BENEFITS.—If a State''; and

(2) by adding at the end the following:

''(2) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State under paragraphs (7) and (9) of subsection (d) may not exceed 30 percent of the amount of all capitalization grants received by the State for the fiscal year.''.

(e) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) of the Federal Water Pollution Control Act (33 U.S.C. 1383(f)) is amended—

(1) by striking ''A State may'' and inserting the following:

''(1) IN GENERAL.—A State may'';

(2) by striking ''320 of this Act.'' and inserting ''320.''; and

(3) by adding at the end the following:

''(2) COMMUNITY DEVELOPMENT.—A State that provides financial assistance from the water pollution control revolving fund of the State shall ensure that applicants for the assistance consult and coordinate with, as appropriate, agencies responsible for developing any—

''(A) local land use plans;

''(B) regional transportation improvement and long-range transportation plans; and

''(C) State, regional, and municipal watershed plans.''.

(f) PRIORITY SYSTEM REQUIREMENT.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (g) and inserting the following:

''(g) PRIORITY SYSTEM REQUIREMENT.—

''(1) DEFINITION OF STATE AGENCY.—In this subsection, the term 'State agency' means

the agency of a State having jurisdiction over water quality management (including the establishment of water quality standards).

''(2) DEVELOPMENT.—

''(A) IN GENERAL.—Notwithstanding section 216, each State agency shall develop and periodically update a project priority system for use in prioritizing projects that are eligible to receive funding from the water pollution control revolving fund of the State in accordance with subsection (c).

''(B) REQUIREMENTS.—In developing the project priority system, a State agency shall—

''(i) take into consideration all available water quality data for the State; and

''(ii) provide for public notice and opportunity for comment, including significant public outreach.

''(3) SUMMARY OF PROJECTS.—

''(A) IN GENERAL.—Each State agency, after public notice and opportunity for comment, shall biennially publish a summary of projects in the State that are eligible for assistance under this title.

''(B) INCLUSIONS.—The summary under subparagraph (A) shall include—

''(i) the priority assigned to each project under the priority system of the State developed under paragraph (2); and

''(ii) the funding schedule for each project, to the extent that such information is available.

''(4) STATEMENT OF POLICY.—It is the policy of Congress that projects in a State that are carried out using assistance provided under this title shall be funded, to the maximum extent practicable, through a project priority system of the State that, in the estimation of the State, is designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of this Act.''.

(g) ADDITIONAL REQUIREMENTS FOR WATER POLLUTION CONTROL REVOLVING FUNDS.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by adding at the end the following:

''(i) TECHNICAL, MANAGERIAL, AND FINANCIAL CAPACITY FOR OPTIMAL PERFORMANCE.—

''(1) DEFINITION OF STATE AGENCY.—In this subsection, the term 'State agency' has the meaning given the term in subsection (g)(1).

''(2) STRATEGY.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of this subsection, each State agency shall implement a strategy to assist treatment works in the State receiving assistance under this title in—

''(i) attaining and maintaining technical, managerial, operations, maintenance, and capital investments; and

''(ii) meeting and sustaining compliance with applicable Federal and State laws.

''(B) REQUIREMENTS.—In preparing the strategy described in subparagraph (A), the State shall consider, solicit public comment on, and include in the strategy—

''(i) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, and local levels that encourage or impair the development of technical, managerial, and financial capacity; and

''(ii) a description of the manner in which the State intends to use the authorities and resources of the State to assist treatment works in attaining and maintaining technical, managerial, and financial capacity.

''(3) DETERMINATION BY ADMINISTRATOR.—Except as provided in subsection (k), if the Administrator determines that a State agency has not developed or implemented a strategy in accordance with paragraph (2), the Administrator shall—

''(A) withhold 20 percent of each capitalization grant made to the State under this title after the date of the determination; and

''(B) permit the State a 1-year period, beginning on the date on which funds are withheld under subparagraph (A), during which the State may implement a strategy in accordance with paragraph (2).

''(4) REALLOTMENT OF FUNDS.—

''(A) IN GENERAL.—If, after the 1-year period described in paragraph (3)(B), the Administrator is not satisfied that a State has carried out adequate corrective action relating to the development and implementation of a strategy required under paragraph (2), the Administrator shall reallot all funds of the State withheld by the Administrator as of that date in accordance with subparagraph (B).

''(B) REQUIREMENTS FOR REALLOTMENT.—The Administrator shall reallot funds under subparagraph (A)—

''(i) only to States that the Administrator determines to be in compliance with this subsection; and

''(ii) in the same ratio provided under the most recent formula for the allotment of funds under this title.

''(5) CONDITION FOR RECEIPT OF ASSISTANCE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (k), beginning on the date that is 3 years after the date of enactment of this subsection, the State shall require each treatment works that receives significant assistance under this title to demonstrate adequate technical, managerial, and financial capacity, including the establishment and implementation by the treatment works of an asset management plan (for which the Administrator may publish information to assist States in determining required content) that—

''(i) conforms to generally accepted industry practices; and

''(ii) includes—

''(I) an inventory of existing assets (including an estimate of the useful life of those assets); and

''(II) an optimal schedule of operations, maintenance, and capital investment required to meet and sustain performance objectives for the treatment works established in accordance with applicable Federal and State laws over the useful life of the treatment works.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), a treatment works may receive assistance under this title if the State determines that the assistance would enable the treatment works to attain adequate technical, managerial, and financial capacity.

''(j) RESTRUCTURING.—Notwithstanding section 204(b)(1), except as provided in subsection (k), a State may provide assistance from the water pollution control revolving fund of the State for a project only if the recipient of the assistance—

''(1) has considered—

''(A) consolidating management functions or ownership with another facility;

''(B) forming public-private partnerships or other cooperative partnerships; and

''(C) using nonstructural alternatives or technologies that may be more environmentally sensitive; and

''(2) has in effect a plan to achieve, within a reasonable period of time, a rate structure that, to the maximum extent practicable—

''(A) reflects the actual cost of service provided by the recipient; and

''(B) addresses capital replacement funds; and

''(3) has in effect, or will have in effect on completion of the project, an asset management plan described in subsection (i)(5).

''(k) EXEMPTION FOR ASSISTANCE SOLELY FOR PLANNING, DESIGN, AND PRECONSTRUCTION ACTIVITIES.—Subsection (j) and paragraphs (3) and (5) of subsection (i) shall not apply to assistance provided under this title that is to be used by a treatment works solely for planning, design, or preconstruction activities.

''(l) TECHNICAL ASSISTANCE.—

''(1) DEFINITION OF QUALIFIED NONPROFIT TECHNICAL ASSISTANCE PROVIDER.—In this subsection, the term 'qualified nonprofit technical assistance provider' means a nonprofit entity that provides technical assistance (such as circuit-rider programs, training, and preliminary engineering evaluations) to small treatment works that—

''(A) serve not more than 3,300 users; and

''(B) are located in a rural area.

''(2) GRANT PROGRAM.—

''(A) IN GENERAL.—The Administrator may make grants to a qualified nonprofit technical assistance provider for use in assisting small treatment works in planning, developing, and obtaining financing for eligible projects described in subsection (c).

''(B) DISTRIBUTION OF GRANTS.—In carrying out this subsection, the Administrator shall ensure, to the maximum extent practicable, that technical assistance provided using funds from a grant under subparagraph (A) is made available in each State.

''(C) CONSULTATION.—As a condition of receiving a grant under this subsection, a qualified nonprofit technical assistance provider shall consult with each State in which grant funds are to be expended or otherwise made available before the grant funds are expended or made available in the State.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $7,000,000 for each of fiscal years 2003 through 2007.

''(m) COMPETITION REQUIREMENTS.—

''(1) IN GENERAL.—The requirements described in section 204(a)(6) shall apply to each specification for bids for projects receiving assistance under this title.

''(2) SINGLE BIDS.—Nothing in this subsection prohibits a recipient of assistance under this title that receives only 1 bid for a project described in paragraph (1) from accepting the bid and carrying out the project.

''(n) NO JUDICIAL REVIEW.—A determination by a State to provide financial assistance under this title shall not be subject to judicial review.''.

(h) ALLOTMENT OF FUNDS.—Section 604(a) of the Federal Water Pollution Control Act (33 U.S.C. 1384(a)) is amended by striking subsection (a) and inserting the following:

''(a) FORMULA.—

''(1) ALLOCATION.—

''(A) IN GENERAL.—Except as provided in paragraph (2) and subject to subsection (b), funds made available to carry out this title for each of fiscal years 2003 through 2006 shall be allocated by the Administrator as follows:

''(i) AMOUNTS OF $1,350,000,000 OR LESS.—$1,350,000,000 (or, if the total amount made available for the fiscal year is less than that amount, the total amount made available) shall be allocated in accordance with a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted under section 516(2), except that the minimum proportionate share provided to each State shall be 1.1 percent of available funds.

''(ii) AMOUNTS BETWEEN $1,350,000,000 AND $1,550,000,000.—Amounts greater than $1,350,000,000 but less than $1,550,000,000 made available for the fiscal year shall be allocated by the Administrator in accordance with a formula that allocates to each State a proportionate share equal to the difference between—

''(I) the amount received under clause (i); and

''(II) the amount that the State would have received under section 205(c);

in cases in which an amount received by the State under clause (i) is less than the amount that would have been received by the State under section 205(c).

''(iii) AMOUNTS GREATER THAN $1,550,000,000.—Any amounts equal to or greater than $1,550,000,000 that are made available for the fiscal year shall be allocated in accordance with a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted under section 516(2), except that the minimum proportionate share provided to each State shall be 1.1 percent of available funds.

''(B) SUBSEQUENT FISCAL YEARS.—For fiscal year 2007 and each fiscal year thereafter, funds shall be allocated in accordance with a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to section 516(2), except that the minimum proportionate share provided to each State shall be 1 percent of available funds.

''(2) PRIVATE UTILITIES.—If a State elects to include the needs of private utilities in the needs survey used to develop the allocation formula described in paragraph (1), the State shall ensure that the private utilities are eligible to receive funds under this title.''.

(i) AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.—Section 606 of the Federal Water Pollution Control Act (33 U.S.C. 1386) is amended—

(1) in subsection (c)—

(A) by inserting ''(including significant public outreach)'' after ''review''; and

(B) by striking paragraph (1) and inserting the following:

''(1) a summary of the priority projects developed under section 603(g) for which the State intends to provide assistance from the water pollution control revolving fund of the State for the year covered by the plan;''; and

(2) in subsection (d)—

(A) in the subsection heading, by striking ''REPORT'' and inserting ''REPORTS'';

(B) by striking ''Beginning the'' and inserting the following:

''(1) IN GENERAL.—Beginning in the''; and

(C) by adding at the end the following:

''(2) REPORT ON TECHNICAL, MANAGERIAL, AND FINANCIAL CAPACITY.—Not later than 2 years after the date on which a State first adopts a strategy in accordance with section 603(j)(2), and annually thereafter, the State shall submit to the Administrator a report on the progress made in improving the technical, managerial, and financial capacity of treatment works in the State (including the progress of the State in complying with the amendments to section 603 made by the Water Investment Act of 2002).

''(3) AVAILABILITY.—A State that submits a report under this subsection shall make the report available to the public.''.

(j) AUTHORIZATION OF APPROPRIATIONS.—The Federal Water Pollution Control Act is amended by striking section 607 (33 U.S.C. 1387) and inserting the following:

''SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

''(1) $3,200,000 for each of fiscal years 2003 and 2004;

''(2) $3,600,000 for fiscal year 2005;

''(3) $4,000,000 for fiscal year 2006; and

''(4) $6,000,000 for fiscal year 2007.

''(b) AVAILABILITY.—Amounts made available under this section shall remain available until expended.

''(c) RESERVATION FOR NEEDS SURVEYS.—Of the amount made available under subsection (a) to carry out this title for a fiscal year, the Administrator may reserve not more than $1,000,000 per year to pay the costs of conducting needs surveys under section 516(2).''.

(k) CONFORMING AMENDMENT.—Section 216 of the Federal Water Pollution Control Act (33 U.S.C. 1296) is amended—

(1) in the first sentence, by inserting ''in accordance with section 603(g)'' before ''the determination''; and

(2) by striking the ''Not less than 25 per centum'' and all that follows.

TITLE II—SAFE DRINKING WATER ACT MODIFICATIONS

SEC. 201. PLANNING, DESIGN, AND PRECONSTRUCTION COSTS.

Section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)) is amended in the second sentence by striking ''(not'' and inserting ''(including planning, design, and associated preconstruction expenditures but not''.

SEC. 202. STATE REVOLVING LOAN FUND.

(a) IN GENERAL.—Section 1452(a)(3)(B)(ii) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(3)(B)(ii)) is amended by inserting ''and the formation of regional partnerships'' after ''procedures''.

(b) PUBLIC OUTREACH.—Section 1452(b) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)) is amended in paragraphs (1) and (3)(B) by inserting ''(including significant public outreach)'' after ''comment'' each place it appears.

(c) TYPES OF ASSISTANCE.—Section 1452(f) of the Safe Drinking Water Act (42 U.S.C. 300j–12(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(E) the recipient of the loan funds considers, during the planning and engineering phase of each project for which the loan funds are received—

''(i) consolidating management functions or ownership with another facility;

''(ii) forming public-private partnerships or other cooperative partnerships; and

''(iii) using nonstructural alternatives or technologies that may be more environmentally sensitive;

''(F) the recipient of the loan funds has in effect a plan to achieve, within a reasonable period of time, a rate structure that, to the maximum extent practicable—

''(i) reflects the actual cost of service provided by the recipient; and

''(ii) addresses capital replacement funds; and

''(G) the recipient of each loan that reflects a significant capital investment has in effect, or will have in effect on completion of the project, an asset management plan (for which the Administrator may publish information to assist States in determining required content) that—

''(i) conforms to generally accepted industry practices; and

''(ii) includes—

''(I) an inventory of existing assets (including an estimate of the useful life of the assets); and

''(II) an optimal schedule of operations, maintenance, and capital investment required to meet and sustain performance objectives;'';

(2) in paragraph (4), by striking ''and'' at the end;

(3) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(6) to reduce costs incurred by a municipality in issuing bonds.''.

(d) CONSULTATION AND COORDINATION WITH STATE AGENCIES; JUDICIAL REVIEW.—Section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)) is amended by adding at the end the following:

''(5) CONSULTATION AND COORDINATION WITH STATE AGENCIES.—A State that provides financial assistance from the drinking water revolving fund of the State shall ensure that applicants for the assistance consult and coordinate with, as appropriate, agencies responsible for developing any—

''(A) local land use plans;

''(B) regional transportation improvement and long-range transportation plans; and

''(C) State, regional, and municipal watershed plans.

''(6) NO JUDICIAL REVIEW.—A determination by a State to provide financial assistance under this section shall not be subject to judicial review.''.

(e) OTHER AUTHORIZED ACTIVITIES.—Section 1452(k)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(k)(1)) is amended by striking subparagraph (D) and inserting the following:

''(D) Make expenditures for the development and implementation of source water protection programs.

''(E) Provide assistance for consolidation among community water systems for the purpose of—

''(i) meeting national primary drinking water standards; or

''(ii) making more efficient use of funds made available under subsection (a)(2).''.

SEC. 203. ADDITIONAL SUBSIDIZATION.

Section 1452(d)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(1)) is amended—

(1) by striking ''Notwithstanding any other provision'' and inserting the following:

''(A) IN GENERAL.—Notwithstanding any other provision''; and

(2) by adding at the end the following:

''(B) SUBSIDIZATION FOR DISADVANTAGED USERS.—

''(i) IN GENERAL.—Subject to clause (ii), a State may provide additional subsidization under subparagraph (A) for a fiscal year for a community that does not meet the definition of a disadvantaged community if the State, as part of the assistance agreement between the State and the recipient of the assistance, ensures that the additional subsidization provided under this paragraph is directed through the user charge rate system to disadvantaged users within the residential user class of the community (as defined by the State based on affordability criteria).

''(ii) MAXIMUM AMOUNT.—Assistance provided by a State under clause (i) shall not exceed 15 percent of the amount of the capitalization grant received by the State for the fiscal year.

''(iii) GUIDANCE.—The Administrator may publish guidance to assist States in identifying disadvantaged users described in clause (i).''.

SEC. 204. PRIVATE UTILITIES.

Section 1452(h) of the Safe Drinking Water Act (42 U.S.C. 300j–12(h)) is amended—

(1) by striking ''The Administrator'' and inserting the following:

''(1) IN GENERAL.—The Administrator''; and

(2) by adding at the end the following:

''(2) PRIVATE UTILITIES.—If a State elects to include the needs of private utilities in the needs survey under paragraph (1), the State shall ensure that the private utilities are eligible to receive funds under this title.''.

SEC. 205. COMPETITION REQUIREMENTS.

Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) is amended by adding at the end the following:

''(s) COMPETITION REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), as a condition of receipt of

funds under this section, no specification for bids prepared for projects to be carried out using the funds shall be written in such a manner as to contain any proprietary, exclusionary, or discriminatory requirement, other than requirements based on performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment. If, in the judgment of a recipient of funds, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a 'brand name or equal' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the recipient need not establish the existence of any source other than the brand or source so named.

''(2) SINGLE BIDS.—Nothing in this subsection prohibits a recipient of assistance under this title that receives only 1 bid for a project described in paragraph (1) from accepting the bid and carrying out the project.''.

SEC. 206. TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.

(a) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—Section 1420(f) of the Safe Drinking Water Act (42 U.S.C. 300g–9(f)) is amended—

(1) in paragraph (2), by inserting ''technology verification, pilot and field testing of innovative technologies, and'' after ''shall include''; and

(2) by striking paragraph (6) and inserting the following:

''(6) REVIEW AND EVALUATION.—

''(A) IN GENERAL.—Not less often than every 2 years, the Administrator shall review and evaluate the program carried out under this subsection.

''(B) DISQUALIFICATION.—If, in carrying out this subsection, the Administrator determines that a small public water system technology assistance center is not carrying out the duties of the center, the Administrator—

''(i) shall notify the center of the determination of the Administrator; and

''(ii) not later than 180 days after the date of the notification, may terminate the provision of funds to the center.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2003 through 2007, to be distributed to the centers in accordance this subsection.''.

(b) ENVIRONMENTAL FINANCE CENTERS.—Section 1420(g) of the Safe Drinking Water Act (42 U.S.C. 300g–9(g)) is amended by striking paragraph (4) and inserting the following:

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000 for each of fiscal years 2003 through 2007.''.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) is amended by striking subsection (m) and inserting the following:

''(m) AUTHORIZATION OF APPROPRIATIONS.—

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

''(A) $1,500,000 for fiscal year 2003;

''(B) $2,000,000 for each of fiscal years 2004 and 2005;

''(C) $3,500,000 for fiscal year 2006; and

''(D) $6,000,000 for fiscal year 2007.

''(2) AVAILABILITY.—Amounts made available under this subsection shall remain available until expended.

''(3) RESERVATION FOR NEEDS SURVEYS.—Of the amount made available under paragraph (1) to carry out this section for a fiscal year, the Administrator may reserve not more than $1,000,000 per year to pay the costs of conducting needs surveys under subsection (h).''.

TITLE III—INNOVATIONS IN FUND AND WATER QUALITY MANAGEMENT

SEC. 301. TRANSFER OF FUNDS.

(a) WATER POLLUTION CONTROL FUND.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by adding at the end the following:

''(i) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—A Governor of the State may—

''(A) reserve up to 33 percent of a capitalization grant made under this title and add the funds reserved to any funds provided to the State under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12); and

''(B) reserve in any year an amount up to the amount that may be reserved under subparagraph (A) for that year from capitalization grants made under section 1452 of that Act (42 U.S.C. 300j–12) and add the reserved funds to any funds provided to the State under this title.

''(2) STATE MATCH.—Funds reserved under this subsection shall not be considered to be a State contribution for a capitalization grant required under this title or section 1452(b) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)).''.

(b) SAFE DRINKING WATER FUND.—Section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)) is amended—

(1) in paragraph (2), by striking ''4'' and inserting ''5''; and

(2) by adding at the end the following:

''(5) TRANSFER OF FUNDS.—

''(A) IN GENERAL.—A Governor of the State may—

''(i) reserve up to 33 percent of a capitalization grant made under this section and add the funds reserved to any funds provided to the State under section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

''(ii) reserve in any year an amount up to the amount that may be reserved under clause (i) for that year from capitalization grants made under section 601 of that Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State under this section.

''(B) STATE MATCH.—Funds reserved under this paragraph shall not be considered to be a State match of a capitalization grant required under this section or section 602(b) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)).''.

SEC. 302. DEMONSTRATION PROGRAM FOR WATER QUALITY ENHANCEMENT AND MANAGEMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator'') shall establish a nationwide demonstration program to—

(A) promote innovations in technology and alternative approaches to water quality management or water supply; and

(B) reduce costs to municipalities incurred in complying with—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(2) SCOPE.—The demonstration program shall consist of 10 projects per year, to be carried out in municipalities selected by the Administrator under subsection (b).

(b) SELECTION OF MUNICIPALITIES.—

(1) APPLICATION.—A municipality that seeks to be selected to participate in the demonstration program shall submit to the Administrator a plan that—

(A) is developed in coordination with—

(i) the agency of the State having jurisdiction over water quality or water supply matters; and

(ii) interested stakeholders;

(B) describes water impacts specific to urban and rural areas;

(C) includes a strategy under which the municipality, through participation in the demonstration program, could effectively—

(i) address those problems; and

(ii) achieve the same water quality goals as those goals that—

(I) could be achieved using more traditional methods; or

(II) are mandated under—

(aa) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(bb) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(D) includes a schedule for achieving the goals of the municipality.

(2) TYPES OF PROJECTS.—In carrying out the demonstration program, the Administrator may select projects relating to such matters as—

(A) excessive nutrient growth;

(B) urban or rural pressure;

(C) a lack of an alternative water supply;

(D) difficulties in water conservation and efficiency;

(E) a lack of support tools and technologies to rehabilitate and replace water supplies;

(F) a lack of monitoring and data analysis for distribution systems;

(G) nonpoint source water pollution;

(H) sanitary overflows;

(I) combined sewer overflows;

(J) problems with naturally-occurring constituents of concern; or

(K) problems with erosion and excess sediment.

(3) RESPONSIBILITIES OF ADMINISTRATOR.—In selecting municipalities under this subsection, the Administrator shall—

(A) ensure, to the maximum extent practicable—

(i) the inclusion in the demonstration program of a variety of projects with respect to—

(I) geographic distribution;

(II) innovative technologies used for the projects; and

(III) nontraditional approaches (including low-impact development technologies) used for the projects; and

(ii) that each category of project described in paragraph (2) is adequately represented;

(B) give higher priority to projects that—

(i) address multiple problems; and

(ii) are regionally applicable;

(C) ensure, to the maximum extent practicable, that at least 1 small community having a population of 10,000 or less receives a grant each year; and

(D) ensure that, for each fiscal year, no municipality receives more than 25 percent of the total amount of funds made available for the fiscal year to provide grants under this section.

(4) COST SHARING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the non-Federal share of the cost of a project carried out under this section shall be at least 20 percent.

(B) WAIVER.—The Administrator may reduce or eliminate the non-Federal share of the cost of a project for reasons of affordability.

(c) REPORTS.—

(1) REPORTS FROM MUNICIPALITIES.—A municipality that is selected for participation in the demonstration program shall submit to the Administrator, on the date of completion of a project of the municipality and on each of the dates that is 1, 2, and 3 years after that date, a report that describes the effectiveness of the project.

(2) REPORTS TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall compile, and submit to the

Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives, a report that describes the status and results of the demonstration program.

(d) INCORPORATION OF RESULTS AND INFORMATION.—To the maximum extent practicable, the Administrator shall incorporate the results of, and information obtained from, successful projects under this section into programs administered by the Administrator.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2003 through 2007.

SEC. 303. RATE STUDY.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall complete a study of the public water system and treatment works rate structures for communities in the United States selected by the Academy in accordance with subsection (c).

(b) REQUIRED ELEMENTS.—

(1) RATES.—The study shall, at a minimum—

(A) determine whether public water system and treatment works rates for communities included in the study adequately address the cost of service, including funds necessary to replace infrastructure;

(B) identify the manner in which the public water system and treatment works rates were determined;

(C) determine the manner in which cost of service is measured;

(D)(i) survey existing practices for establishing public water system and treatment works rates; and

(ii) identify any commonalities in factors and processes used to evaluate rate systems and make related decisions; and

(E) recommend a set of best industry practices for public water systems and treatment works for use in establishing a rate structure that—

(i) adequately addresses the true cost of service; and

(ii) takes into consideration the needs of disadvantaged individuals and communities.

(2) AFFORDABILITY.—The study shall, at a minimum—

(A) identify existing standards for affordability;

(B) determine the manner in which those standards are determined and defined;

(C) determine the manner in which affordability varies with respect to communities of different sizes and in different regions; and

(D) determine the extent to which affordability affects the decision of a community to increase public water system and treatment works rates (including the decision relating to the percentage by which those rates should be increased).

(3) DISADVANTAGED COMMUNITIES.—The study shall, at a minimum—

(A) survey a cross-section of States representing different sizes, demographics, and geographical regions;

(B) describe, for each State described in subparagraph (A), the definition of ''disadvantaged community'' used in the State in carrying out projects and activities under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(C) review other means of identifying the meaning of the term ''disadvantaged'', as that term applies to communities;

(D) determine which factors and characteristics are required for a community to be considered ''disadvantaged''; and

(E) evaluate the degree to which factors such as a reduction in the tax base over a period of time, a reduction in population, the loss of an industrial base, and the existence of areas of concentrated poverty are taken into account in determining whether a community is a disadvantaged community.

(c) SELECTION OF COMMUNITIES.—The National Academy of Sciences shall select communities, the public water system and treatment works rate structures of which are to be studied under this section, that include a cross section of communities representing various populations, income levels, demographics, and geographical regions.

(d) REPORT TO CONGRESS.—On completion of the study under this section, the National Academy of Sciences shall submit to Congress a report that describes the results of the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2003 and 2004.

SEC. 304. EFFECTS ON POLICIES AND RIGHTS.

(a) IN GENERAL.—Nothing in this Act—

(1) impairs or otherwise affects in any way, any right or jurisdiction of any State with respect to the water (including boundary water) of the State;

(2) supersedes, abrogates, or otherwise impairs the authority of any State to allocate quantities of water within areas under the jurisdiction of the State; or

(3) supersedes or abrogates any right to any quantity or use of water that has been established by any State.

(b) STATE WATER RIGHTS.—Notwithstanding any other provision of law, with respect to the implementation of this Act and amendments made by this Act—

(1) the management of and control over water in a State shall be subject to and in accordance with the laws of the State in which the water is located;

(2) Congress delegates to each State the authority to regulate water of the State, including the authority to regulate water in interstate commerce (including regulation of usufructuary rights, trade, and transportation); and

(3) the United States, and any agency or officer on behalf of the United States, may exercise management and control over water in a State only in compliance with the laws of the State in which the water is located.

TITLE IV—WATER RESOURCE PLANNING

SEC. 401. FINDINGS.

Congress finds that—

(1) there is ever-growing demand and competition for water from many segments of society, including municipal users, agriculture, and critical ecosystems;

(2) population growth in the United States will continue to place increasing pressure on the water supply of the United States;

(3) because sources of water do not follow political boundaries—

(A) the availability of water is increasingly becoming a regional issue; and

(B) it is more difficult to take action—

(i) to monitor the state of water resources;

(ii) to prepare for water shortages or surpluses;

(iii) to prevent the occurrence of water shortages or surpluses; or

(iv) to respond to emergency situations;

(4)(A) water shortages or surpluses can—

(i) impact public health;

(ii) limit economic and agricultural development; and

(iii) damage ecosystems; and

(B) the United States often suffers serious economic and environmental losses from water shortages or surpluses;

(5) there is no national policy to ensure an integrated and coordinated Federal strategy to monitor the state of the water resources of the United States;

(6) periodic assessments of the water resources of the United States are necessary; and

(7)(A) Congress has recognized and deferred to the States the authority to allocate and administer water within the borders of the States;

(B) the courts have confirmed that this is an appropriate role for the States; and

(C) Congress should continue to defer to States on laws and regulations governing the appropriation, distribution, and control or use of water.

SEC. 402. DEFINITION OF SECRETARY.

In this title, the term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

SEC. 403. ACTIONS.

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct an assessment of the state of water resources in the United States.

(2) COMPONENTS.—The assessment shall, at a minimum—

(A) identify areas in the United States that are at significant risk for water shortages or water surpluses, as those shortages or surpluses pertain to support of human or ecosystem needs, in—

(i) the short term (1 through 10 years);

(ii) the middle term (11 through 20 years); and

(iii) the long term (21 through 50 years); and

(B) identify areas in each category described in subparagraph (A) in which water resource issues cross political boundaries.

(3) REPORT.—On completion of the assessment, the Secretary shall submit to Congress a report that describes the results of the assessment.

(b) WATER RESOURCE RESEARCH PRIORITIES.—

(1) IN GENERAL.—The Secretary shall coordinate a process among Federal agencies (including the Environmental Protection Agency) to develop and publish, not later than 1 year after the date of enactment of this Act, a list of water resource research priorities that focuses on—

(A) monitoring; and

(B) improving the quality of the information available to State, tribal, and local water resource managers.

(2) USE OF LIST.—The list published under paragraph (1) shall be used by Federal agencies as a guide in making decisions on the allocation of water research funding.

(c) INFORMATION DELIVERY SYSTEM.—

(1) IN GENERAL.—The Secretary shall coordinate a process to develop an effective information delivery system to communicate information described in paragraph (2) to—

(A) decisionmakers at the Federal, regional, State, tribal, and local levels;

(B) the private sector; and

(C) the general public.

(2) TYPES OF INFORMATION.—The information referred to in paragraph (1) may include—

(A) the results of the national water resource assessment;

(B) a summary of the Federal water research priorities developed under subsection (b);

(C) near real-time data and other information on water shortages and surpluses;

(D) planning models for water shortages or surpluses (at various levels, such as State, river basin, and watershed levels);

(E) streamlined procedures for States and localities to interact with and obtain assistance from Federal agencies that perform water resource functions; and

(F) other materials, as determined by the Secretary.

SEC. 404. REPORT TO CONGRESS.

Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter through fiscal year 2007, the Secretary shall submit to Congress a report on the implementation of this title.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this title $3,000,000 for each of fiscal years 2003 through 2007, to remain available until expended.●

Mr. JEFFORDS. Mr. President, I rise today to join my colleagues Senator GRAHAM, Senator CRAPO, and Senator SMITH of New Hampshire in introducing the Water Investment Act of 2002. This legislation seeks to provide additional resources to States, Tribes, and localities to meet water infrastructure needs. Simultaneously, it seeks to move the state of the art in water program management forward by increasing the flexibility offered to States in administering their water programs, ensuring that ''next generation'' of water quality issues receive the appropriate focus, and institutionalizing financial management capacity into our Nation's water systems.

Mr. President, this legislation is critical to our Nation's future. We tend to take clean water in our faucets and well-functioning, hidden sewage treatment systems for granted in this country. However, without vigilance, these luxuries can quickly disappear. The Water Investment Act of 2002 will help our communities be vigilant.

This legislation authorizes funding of over $20 billion over 5 years nationwide for clean water and $15 billion over 5 years nationwide for safe drinking water projects.

There is significant new flexibility attached to these funds.

Many of the provisions already authorized in the Safe Drinking Water Act which allow an extension of loan terms and more favorable loan terms (including principal forgiveness) for disadvantaged communities. In States such as my home State of Vermont, these types of provisions are critical as small communities struggle to meet water quality needs.

Recognizing the needs of larger communities with diverse income groups within their borders, this bill includes a new opportunity for States to provide more favorable loan terms to communities that may not be disadvantaged as a whole, but may have pockets of disadvantaged individuals as long as the community can demonstrate that the financial benefit they received will be directed through the rate structure toward disadvantaged individuals (based on income) in their service area.

The bill makes the authority to transfer funds between the Safe Drinking Water Act and Clean Water Act State revolving funds permanent.

There is financial accountability built into the Water Investment Act of 2002. We have included provisions for both the Clean Water Act and the Safe Drinking Water Act that are designed to help water utilities better manage their capital investments using asset management plans, rate structures that account for capital replacement costs, and other financial management techniques. We encourage utilities to seek innovative solutions by asking them to review options for consolidation, public-private partnerships, and low-impact technologies before proceeding with a project.

Whenever one mentions ''consolidation'', concerns are often raised about inadvertently providing incentives for excessive or uncontrolled growth. This legislation recognizes that concern and includes a provision that specifically requires States to ensure that water projects are coordinated with local land use plans, regional transportation improvement and long-range transportation plans, and state, regional and municipal watershed plans. As a package, this legislation will help ensure that utilities seek the most efficient organizational structure to meet their water quality needs.

I am also very pleased that the bill includes provisions ensuring that ''next generation'' of water quality issues receives the appropriate focus. As I worked on this legislation, I became aware that there are opportunities to use low-impact technologies to solve water quality issues that may or may not be considered by states and localities as they seek to solve water quality issues. In response, our bill includes several incentives for use of non-structural technologies. We specifically state in the statute that these approaches are eligible to receive funding under the Clean Water Act State Revolving Fund and require that recipients of funds consider the use of low-impact technologies. In addition, we authorize a demonstration program at $20 million per year over 5 years to promote innovations in technology and alternative approaches to water quality management and water supply. This program requires that a portion of the projects use low-impact development technologies.

The use of nontraditional technologies is the focus in the Water Investment Act to ensure that nonpoint source pollution receives appropriate emphasis under the Clean Water Act. The modifications this bill makes to the priority listing requirements in the Clean Water Act ensure that nonpoint source projects will be a part of the equation when funding decisions are made at the State level.

The bill also addresses eligibility issues. It clarifies that planning, design, and associated preconstruction costs are eligible for funds under the Clean Water Act and Safe Drinking Water Act State Revolving Funds as stand-alone items. This ensures that small communities who may not have the resources available to get a project ready to go on their own can receive assistance.

Small communities will also benefit from a provision in the bill that allows privately-owned wastewater facilities to access the Clean Water Act State Revolving Fund Already permitted under the Safe Drinking Water Act, this will allow small, privately-owned wastewater systems such as those located in trailer parks, to obtain much-needed financial assistance.

To ensure that both public and private small systems can actually develop the projects to solve problems, our legislation provides three main types of technical assistance for small communities. It authorizes $7 million per year over 5 years for technical assistance to small systems serving less than 3300 people located in a rural area. It reauthorizes the Small Public Water Systems Technology Assistance Centers for an additional $5 million per year over 5 years. Finally, it reauthorizes the Environmental Finance Centers for $1.5 million per year over 5 years.

We have heard from many organizations that public participation in the execution of the state revolving loan funds needs to be increased. I hope that every individual interested in how water quality projects are selected and prioritized in their States takes full advantage of existing opportunties for public participation. Our legislation takes action to ensure that there is ample opportunity for public comment when developing project priority lists and intended use plans.

There are a multitude of additional provisions in this legislation that I will leave to my colleagues to discuss. I want to thank Senator GRAHAM for his leadership on this legislation and Senators CRAPO and SMITH for their dedication to introducing a bi-partisan package today and their willingness to find a compromise when we needed one.

Water infrastructure is a major priority for the Environment and Public Works Committee during this Congress. We plan to begin an aggressive schedule to move this legislation through the Senate on February 26 with our first committee hearing, followed by our second hearing on February 28 and a markup in early March. I recognize that this issue is of great importance to every Senator, and I look forward to working with each of you to pass this important legislation that is so important to our Nation's water quality and drinking water safety.

By Mr. WYDEN (for himself, Mrs. MURRAY, and Mr. SMITH of Oregon):

S. 1962. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry for the rollover of Capital Construction Funds to individual retirement plans; to the Committee on Finance.

● Mr. WYDEN. Mr. President, today I am pleased to introduce, for myself, Mrs. MURRAY, and Mr. SMITH of Oregon, the Capital Construction Fund Qualified Withdrawal Act of 2002.

The groundfish fishery in Oregon and adjoining States in the Pacific Northwest continues to face daunting challenges as a result of the groundfish fishery disaster, resulting in a more than 40-percent drop in the income of Oregon fishers since 1995. To assist in rebuilding healthy groundfish stocks, my goal remains to reduce overcapitalization in the groundfish fishery. We want to get the right number of fishers out there, at the right time, catching the right number of fish. This legislation supports this effort by reforming the Capital Construction Fund in a way that will ease the transition for groundfish fishers away from fishing.

The Capital Construction Fund, CCF, was created by the Merchant Marine Act of 1936, as amended in 1969, 46 U.S.C. 1177. CCF has been a way for fishers to accumulate funds, free from taxes, for the purpose of buying or refitting fishing vessels. The program has been a success; however, the CCF's usefulness has not kept up with the times, and today the CCF is exacerbating the problems facing U.S. fisheries, including the West Coast groundfish fishery.

CCF works like an Individual Retirement Account, IRA, in that deposits to the fund earn interest and are deducted from the fishermen's taxable income. But unlike IRAs, there is no limit on contributions to the CCF; so fishers are able to accumulate funds quickly. In Oregon, the amounts in the accounts range from $10,000 to over $200,000.

The problem my legislation will address is that fishers lose up to 70 percent of their funds in taxes and penalties if they withdraw funds from the CCF for purposes other than buying new vessels or upgrading current vessels. Because of the environmental problems plaguing commercial fishing, as well as the overcapitalization of the fishing fleet, fishermen who want to opt out of fishing are penalized for doing so.

This bill takes a significant step towards helping fishermen and making the West Coast groundfish fishery and the commercial fishing industry sustainable by amending the CCF to allow non-fishing uses of investments. This bill amends the Merchant Marine Act of 1936 and the Internal Revenue Code to allow funds currently in the CCF to be rolled over into an IRA or other types of retirement accounts, or to be used for the payment of an industry fee authorized by the fishery capacity reduction program, without adverse tax consequences to the account holders.

I look forward to working with my colleagues to pass this legislation, and I ask that the text of the bill be printed in the RECORD.

The bill follows.

S. 1962

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 Capital Construction Fund Qualified Withdrawal Act of 2002''.

SEC. 2. AMENDMENT OF THE MERCHANT MARINE ACT OF 1936 TO ENCOURAGE RETIREMENT OF CERTAIN FISHING VESSELS AND PERMITS.

(a) IN GENERAL.—Section 607(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(a)) is amended by adding at the end the following: ''Any agreement entered into under this section may be modified for the purpose of encouraging the sustainability of the fisheries of the United States by making the termination and withdrawal of a capital construction fund a qualified withdrawal if done in exchange for the retirement of the related commercial fishing vessels and related commercial fishing permits.''.

(b) NEW QUALIFIED WITHDRAWALS.—

(1) AMENDMENTS TO MERCHANT MARINE ACT, 1936.—Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—

(A) by striking ''for:'' and inserting ''for—'';

(B) by striking ''vessel'' in subparagraph (A) and inserting ''vessel;'';

(C) by striking ''vessel, or'' in subparagraph (B) and inserting ''vessel;'';

(D) by striking ''vessel.'' in subparagraph (C) and inserting ''vessel;''; and

(E) by inserting after subparagraph (C) the following:

''(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b));

''(E) in the case of any such person or shareholder for whose benefit such fund was established or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3) of the Internal Revenue Code of 1986) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37) of such Code); or

''(F) the payment to a person or corporation terminating a capital construction fund for whose benefit the fund was established and retiring related commercial fishing vessels and permits.''.

(2) SECRETARY TO ENSURE RETIREMENT OF VESSELS AND PERMITS.—The Secretary of Commerce by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by section 607(f)(1)(F) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)(F)) retires the related commercial use of fishing vessels and commercial fishery permits.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 7518(e)(1) of the Internal Revenue Code of 1986 (relating to purposes of qualified withdrawals) is amended—

(A) by striking ''for:'' and inserting ''for—'';

(B) by striking ''vessel, or'' in subparagraph (B) and inserting ''vessel;'';

(C) by striking ''vessel.'' in subparagraph (C) and inserting ''vessel;'';

(D) by inserting after subparagraph (C) the following:

''(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a);

''(E) in the case of any person or shareholder for whose benefit such fund was established or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3)) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37)); or

''(F) the payment to a person terminating a capital construction fund for whose benefit the fund was established and retiring related commercial fishing vessels and permits.''.

(2) SECRETARY TO ENSURE RETIREMENT OF VESSELS AND PERMITS.—The Secretary of the Treasury by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by section 7518(e)(1)(F) of the Internal Revenue Code of 1986 retires the related commercial use of fishing vessels and commercial fishery permits referred to therein.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to withdrawals made after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 211—DESIGNATING MARCH 2, 2002, AS ''READ ACROSS AMERICA DAY''

Ms. COLLINS (for herself and Mr. REED) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 211

Whereas reading is a basic requirement for quality education and professional success, and a source of pleasure throughout life;

Whereas Americans must be able to read if the Nation is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the new Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 2, 2002, as ''Read Across America Day'';

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in a celebration of reading; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE CONCURRENT RESOLUTION 98—COMMEMORATING THE 30TH ANNIVERSARY OF THE INAUGURATION OF SINO-AMERICAN RELATIONS AND THE SALE OF THE FIRST COMMERCIAL JET AIRCRAFT TO CHINA

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 98

Whereas February 21, 2002, marks the 30th anniversary of President Richard Nixon's historic visit to the Peoples Republic of China;

Whereas on February 21, 1972, the world watched as Air Force One, a Boeing 707 carrying President Nixon, landed in China to inaugurate a new era in Sino-American relations;

Whereas in the same year, the Civil Aviation Administration of China ordered 10 Boeing 707 jet aircraft, marking the resumption

of a vibrant trading relationship between the United States and China; and

Whereas President Bush's visit to China on February 21, 2002, commemorates the importance of the re-opening of political and economic ties with the Peoples Republic of China: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes that President Nixon's historic 1972 visit to China provided the foundation for improved Sino-American relations during the subsequent 3 decades; and

(2) commends President Bush in his effort to continue to advance a political, cultural, and commercial relationship between the United States and the Peoples Republic of China for the benefit of their respective citizens.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2916. Mr. DODD (for Mr. KENNEDY) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

SA 2917. Mr. DASCHLE (for himself and Mr. BINGAMAN) proposed an amendment to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SA 2918. Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. MURRAY, Mr. BINGAMAN, Mr. BREAUX, Mr. SMITH , of Oregon, Mr. DOMENICI, Mrs. HUTCHISON, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 2919. Mr. REID (for Mr. HOLLINGS) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

SA 2920. Mr. REID (for Mr. COCHRAN) proposed an amendment to the bill S. Res. 44, designating March 2002 as ''Arts Education Month''.

SA 2921. Mr. REID (for Mr. COCHRAN) proposed an amendment to the bill S. Res. 44, supra.

TEXT OF AMENDMENTS

SA 2916. Mr. DODD (for Mr. KENNEDY) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the adminstration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 22, strike lines 9 through 22, and insert the following:

(b) SAFE HARBOR.—

(1) IN GENERAL.—Except as provided in paragraph (2), if a State or locality receives funds under a grant program under subtitle A or B of title II for the purpose of meeting a requirement under section 101, such State or locality shall be deemed to be in compliance with such requirement until January 1, 2006, and no action may be brought against such State or locality on the basis that the State or locality is not in compliance with such requirement before such date.

(2) EXCEPTIONS.—

(A) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—The safe harbor provision under paragraph (1) shall not apply with respect to the requirement described in section 101(a)(3).

(B) OTHER FEDERAL LAWS.—An action may be brought against a State or locality described in paragraph (1) if the noncompliance of such State or locality with a requirement described in such paragraph results in a violation of—

(i) the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(ii) the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.);

(iii) the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);

(iv) the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.);

(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); or

(vi) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

On page 34, strike line 23, and insert the following:

(c) SAFE HARBOR.—No action may be brought under this Act

On page 44, strike line 1, and insert the following:

(d) SAFE HARBOR.—No action may be brought under this Act

On page 68, strike lines 19 and 20, and insert the following:

(a) IN GENERAL.—Nothing in this Act may be construed to authorize

SA 2917. Mr. DASCHLE (for himself and Mr. BINGAMAN) proposed an amendment to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

Strike all of the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

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DIVISION A—RELIABLE AND DIVERSE POWER GENERATION AND TRANSMISSION

TITLE I—REGIONAL COORDINATION

SEC. 101. POLICY ON REGIONAL COORDINATION.

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

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

(1) the generation or transmission of electric energy,

(2) the transportation, storage, and distribution of crude oil, residual fuel oil, refined petroleum product, or natural gas, or (3) the reduction in load through increased efficiency, conservation, or load control measures.

SEC. 102. FEDERAL SUPPORT FOR REGIONAL COORDINATION.

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

(1) assessing future supply availability and demand requirements,

(2) planning and siting additional energy infrastructure, including generating facilities, electric transmission facilities, pipelines, refineries, and distributed generation facilities to meet regional needs,

(3) identifying and resolving problems in distribution networks,

(4) developing plans to respond to surge demand or emergency needs, and (5) developing renewable energy, energy efficiency, conservation, and load control programs.

(b) ANNUAL CONFERENCE ON REGIONAL ENERGY COORDINATION.—

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

(2) PARTICIPATION.—The Secretary of Energy shall invite appropriate representatives

of federal, state, and regional energy organizations, and other interested parties.

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

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

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

(A) regional coordination on energy policy and infrastructure issues, and

(B) federal support for regional coordination.

TITLE II—ELECTRICITY

Subtitle A—Amendments to the Federal Power Act

SEC. 201. DEFINITIONS.

(a) DEFINITION OF ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

''(22) 'electric utility' means any person or Federal or State agency (including any municipality) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency.

(b) DEFINITION OF 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 or operates facilities used for the transmission of electric energy in—

''(A) interstate commerce; or

''(B) for the sale of electric energy at wholesale.''.

SEC. 202. ELECTRIC UTILITY MERGERS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b) 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 $1,000,000,

''(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with the facilities of any other person, by any means whatsoever,

(C) purchase, acquire, or take any security of any other public utility, or

(D) purchase, lease, or otherwise acquire existing facilities for the generation of electric energy or for the production or transportation of natural gas.

''(2) No holding company in a holding company system that includes a transmitting utility or an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with a transmitting utility, an electric utility company, a gas utility company, or a holding company in a holding company system that includes a transmitting utility, an electric utility company, or a gas utility company, without first having secured an order of the Commission authorizing it to do so.

''(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

''(4) After notice and opportunity for hearing, if the Commission finds that the proposed disposition, consolidation, acquisition, or control will be consistent with the public interest, it shall approve the same.

''(5) For purposes of this subsection, the terms 'electric utility company', 'gas utility company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2002.

''(6) Notwithstanding section 201(b)(1), facilities used for the generation of electric energy shall be subject to the jurisdiction of the Commission for purposes of this section.''.

SEC. 203. MARKET-BASED RATES.

(a) APPROVAL OF MARKET-BASED RATES.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

''(h) The Commission may determine whether a market-based rate for the sale of electric energy subject to the jurisdiction of the Commission is just and reasonable and not unduly discriminatory or preferential. In making such determination, the Commission shall consider—

''(1) whether the seller and its affiliates have, or have adequately mitigated, market power in the generation and transmission of electric energy;

''(2) whether the sale is made in a competitive market;

''(3) whether market mechanisms, such as power exchanges and bid auctions, function adequately;

''(4) the effect of demand response mechanisms;

''(5) the effect of mechanisms or requirements intended to ensure adequate reserve margins; and

''(6) other such considerations as the Commission may deem to be appropriate and in the public interest.''.

(b) REVOCATION OF MARKET-BASED RATES.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

''(f) Whenever the Commission, after a hearing had upon its own motion or upon complaint, finds that a rate charged by a public utility authorized to charge a market-based rate under section 205 is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate and fix the same by order in accordance with this section, or order such other action as will, in the judgment of the Commission, adequately ensure a just and reasonable market-based rate.''.

SEC. 204. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking ''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 ''on which the complaint is filed''; and

(2) striking ''60 days after the publication by the Commission of notice of its intention to initiate such proceeding nor later than 5 months after the expiration of such 60-day period'' in the third sentence and inserting ''on which the Commission publishes notice of its intention to initiate such proceeding''.

SEC. 205. TRANSMISSION INTERCONNECTIONS.

Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended to read as follows:

''TRANSMISSION INTERCONNECTION AUTHORITY

''SEC. 210. (a)(1) The Commission shall, by rule, establish technical standards and procedures for the interconnection of facilities used for the generation of electric energy with facilities used for the transmission of electric energy in interstate commerce. The rule shall provide—

''(A) criteria to ensure that an interconnection will not unreasonably impair the reliability of the transmission system; and

''(B) criteria for the apportionment or reimbursement of the costs of making the interconnection.

''(2) Notwithstanding section 201(f), a transmitting utility shall interconnect its transmission facilities with the generation facilities of a power producer upon the application of the power producer if the power producer complies with the requirements of the rule.

''(b) Upon the application of a power producer or its own motion, the Commission may, after giving notice and an opportunity for a hearing to any entity whose interest may be affected, issue an order requiring—

''(1) the physical connection of facilities used for the generation of electric energy with facilities used for the transmission of electric energy in interstate commerce;

''(2) such action as may be necessary to make effective any such physical connection;

''(3) such sale or exchange of electric energy or other coordination, as may be necessary to carry out the purposes of such order; or

''(4) such increase in transmission capacity as may be necessary to carry out the purposes of such order.

''(c) As used in this section, the term 'power producer' means an entity that owns or operates a facility used for the generation of electric energy.''.

SEC. 206. OPEN ACCESS TRANSMISSION BY CERTAIN UTILITIES.

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

''OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

''SEC. 211A. (1) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

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

''(B) on terms and conditions (not relating to rates) that are comparable to those under Commission rules that require public utilities to offer open access transmission services and that are not unduly discriminatory or preferential.

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

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

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

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

''(3) 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.

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

''(5) The provision of transmission services under paragraph (1) does not preclude a request for transmission services under section 211.

''(6) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

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

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

''(B) is either an entity described in section 201(f) or a rural electric cooperative.''.

SEC. 207. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY STANDARDS.

''(a) DUTY OF THE COMMISSION.—the Commission shall establish and enforce one or more systems of mandatory electric reliability standards to ensure the reliable operation of the interstate transmission system, which shall be applicable to—

''(1) any entity that sells, purchases, or transmits, electric energy using the interstate transmission system, and

''(2) any entity that owns, operates, or maintains facilities that are a part of the interstate transmission system.

''(b) STANDARDS.—In carrying out its responsibility under subsection (a), the Commission may adopt and enforce, in whole or in part, a reliability standard proposed or adopted by the North American Electric Reliability Council, a regional reliability council, a similar organization, or a State regulatory authority.

''(c) ENFORCEMENT.—In carrying out its responsibility under subsection (a), the Commission may certify one or more self-regulating reliability organizations (which may include the North American Electric Reliability Council, one or more regional reliability councils, one or more regional transmission organizations, or any similar organization) to ensure the reliable operation of the interstate transmission system and to monitor and enforce compliance of their members with electric reliability standards adopted under this section.

''(d) COOPERATION WITH CANADA AND MEXICO.—The Commission shall ensure that any self-regulating reliability organization certified under this section, one or more of whose members are interconnected with transmitting utilities in Canada or the Republic of Mexico, provide for the participation of such utilities in the governance of the organization and the adoption of reliability standards. Nothing in this section shall be construed to extend the jurisdiction of the Commission outside of the United States.

''(e) PRESERVATION OF STATE AUTHORITY.—Nothing in this section shall be construed to preempt the authority of any State to take action to ensure the safety, adequacy, and reliability of local distribution facilities service within the State, except where the exercise of such authority unreasonably impairs the reliability of the interstate transmission system.

''(f) DEFINITIONS.—For purposes of this section:

''(1) The term 'interstate transmission system' means the network of facilities used for the transmission of electric energy in interstate commerce.

''(2) The term 'reliability' means the ability of the interstate transmission system to transmit sufficient electric energy to supply the aggregate electric demand and energy requirements of electricity consumers at all times and the ability of the system to withstand sudden disturbances.''.

SEC. 208. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 216. MARKET TRANSPARENCY RULES.

''(a) COMMISSION RULES.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide information about the availability and price of wholesale electric energy and transmission services to the Commission, state commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis.

''(b) INFORMATION REQUIRED.—The Commission shall require—

''(1) each regional transmission organization to provide statistical information about the available capacity and capacity constraints of transmission facilities operated by the organization; and

''(2) each broker, exchange, or other market-making entity that matches offers to sell and offers to buy wholesale electric energy in interstate commerce to provide statistical information about the amount and sale price of sales of electric energy at wholesale in interstate commerce it transacts.

''(c) TIMELY BASIS.—The Commission shall require the information required under subsection (b) to be posted on the Internet as soon as practicable and updated as frequently as practicable.

''(d) PROTECTION OF SENSITIVE INFORMATION.—The Commission shall exempt from disclosure commercial or financial information that the Commission, by rule or order, determines to be privileged, confidential, or otherwise sensitive.''.

SEC. 209. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 217. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

''(a) FAIR TREATMENT OF INTERMITTENT GENERATORS.—The Commission shall ensure that all transmitting utilities provide transmission service to intermittent generators in a manner that does not penalize such generators, directly or indirectly, for characteristics that are—

''(1) inherent to intermittent energy resources; and

''(2) are beyond the control of such generators.

''(b) POLICIES.—The Commission shall ensure that the requirement in subsection (a) is met by adopting such policies as it deems appropriate which shall include, but not be limited to, the following:

''(1) Subject to the sole exception set forth in paragraph (2), the Commission shall ensure that the rates transmitting utilities charge intermittent generator customers for transmission services do not directly or indirectly penalize intermittent generator customers for scheduling deviations.

''(2) The Commission may exempt a transmitting utility from the requirement set forth in subsection (b) if the transmitting utility demonstrates that scheduling deviations by its intermittent generator customers are likely to have a substantial adverse impact on the reliability of the transmitting utility's system. For purposes of administering this exemption, there shall be a rebuttable presumption of no adverse impact where intermittent generators collectively constitute 20 percent or less of total generation interconnected with transmitting utility's system and using transmission services provided by transmitting utility.

''(3) The Commission shall ensure that to the extent any transmission charges recovering the transmitting utility's embedded costs are assessed to intermittent generators, they are assessed to such generators on the basis of kilowatt-hours generated rather than the intermittent generator's capacity.

''(4) The Commission shall require transmitting utilities to offer to intermittent generators, and may require transmitting utilities to offer to all transmission customers, access to nonfirm transmission service pursuant to long-term contracts of up to ten years duration under reasonable terms and conditions.

''(c) DEFINITIONS.—As used in this section:

''(1) The term 'intermittent generator' means a facility that generates electricity using wind or solar energy and no other energy source.

''(2) The term 'nonfirm transmission service' means transmission service provided on an 'as available' basis.

''(3) The term 'scheduling deviation' means delivery of more or less energy than has previously been forecast in a schedule submitted by an intermittent generator to a control area operator or transmitting utility.''.

SEC. 210. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting ''electric utility,'' after ''Any person,''; and

(2) inserting ''transmitting utility,'' after ''licensee'' each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting ''or transmitting utility'' after ''any person'' in the first sentence.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''Any person,'' in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is repealed.

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''.

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the ''Public Utility Holding Company Act of 2002''.

SEC. 222. DEFINITIONS.

For purposes of this subtitle:

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

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

(3) The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

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

(6) The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than

the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) The term ''holding company'' means—

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

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

(9) The term ''holding company system'' means a holding company, together with its subsidiary companies.

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

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

(12) The term ''person'' means an individual or company.

(13) The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term ''public utility company'' means an electric utility company or a gas utility company.

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

(16) The term ''subsidiary company'' of a holding company means—

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

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

(17) The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. 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. 224. FEDERAL ACCESS TO BOOKS AND RECORDS.

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

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

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company 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. 225. STATE ACCESS TO BOOKS AND RECORDS.

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

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

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

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

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to 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. 226. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall promulgate a final rule to exempt from the requirements of section 224 any person that is a holding company, solely with respect to one or more—

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

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 224, 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. 227. 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 promulgation of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle 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. 228. APPLICABILITY.

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

(1) the United States;

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

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

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

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

SEC. 229. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 230. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 231. SAVINGS PROVISIONS.

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

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal

Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 232. IMPLEMENTATION.

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

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

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

SEC. 233. TRANSFER OF RESOURCES.

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

SEC. 234. INTER-AGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

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

(1) 1 member each from—

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

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

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

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

(A) 1 shall be appointed by the Secretary of Agriculture to represent the Rural Utility Service; and

(B) 1 shall be appointed by the Chairman of the Securities and Exchange Commission to represent that Commission.

(b) STUDY AND REPORT.—

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

(2) REPORT.—

(A) FINAL REPORT.—Not later than 1 year after the effective date of this subtitle, the task force shall submit a final report of its findings under paragraph (1) to the Congress.

(B) PUBLIC COMMENT.—At least 60 days before submission of a final report to the Congress under subparagraph (A), the task force shall publish a draft report in the Federal Register to provide for public comment.

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

(1) the best means of protecting competition within the wholesale and retail electric market;

(2) activities within the wholesale and retail electric market that may allow unfair and unjustified discriminatory and deceptive practices;

(3) activities within the wholesale and retail electric market, including mergers and acquisitions, that deny market access or suppress competition;

(4) cross-subsidization that may occur between regulated and nonregulated activities; and

(5) the role of State public utility commissions in regulating competition in the wholesale and retail electric market.

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

SEC. 235. GAO STUDY ON IMPLEMENTATION.

(a) STUDY.—The Comptroller General shall conduct a study of the success of the Federal Government and the States during the 18–month period following the effective date of this subtitle in—

(1) the prevention of anticompetitive practices and other abuses by public utility holding companies, including cross-subsidization and other market power abuses; and

(2) the promotion of competition and efficient energy markets to the benefit of consumers.

(b) REPORT TO CONGRESS.—Not earlier than 18 months after the effective date of this subtitle or later than 24 months after that effective date, the Comptroller General shall submit a report to the Congress on the results of the study conducted under subsection (a), including probable causes of its findings and recommendations to the Congress and the States for any necessary legislative changes.

SEC. 236. EFFECTIVE DATE.

This subtitle shall take effect 18 months after the date of enactment of this subtitle.

SEC. 237. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

(b) DEFINITIONS.—

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

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

Subtitle C—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 241. REAL-TIME PRICING STANDARD.

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

''(11) REAL-TIME PRICING.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a real-time rate schedule, under which the rate charged by the electric utility varies by the hour (or smaller time interval) according to changes in the electric utility's wholesale power cost. The real-time pricing service shall enable the electric consumer to manage energy use and cost through real-time metering and communications technology.

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

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

(b) SPECIAL RULES FOR REAL-TIME PRICING STANDARD.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

''(i) REAL-TIME PRICING.—In a state that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same real-time metering and communication service as a direct retail electric consumer of the electric utility.''.

SEC. 242. ADOPTION OF ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

''(6) DISTRIBUTED GENERATION.—Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

''(7) DISTRIBUTION INTERCONNECTIONS.—No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

''(8) MINIMUM FUEL AND TECHNOLOGY DIVERSITY STANDARD.—Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

''(9) FOSSIL FUEL EFFICIENCY.—Each electric utility shall develop and implement a ten-year plan to increase the efficiency of its fossil fuel generation and shall monitor and report to its State regulatory authority excessive greenhouse gas emissions resulting from the inefficient operation of its fossil fuel generating plants.''.

(c) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

''(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.''.

SEC. 243. TECHNICAL ASSISTANCE.

Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

''(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as he determines appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).''.

SEC. 244. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) IN GENERAL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase or sell electric energy under this section.

''(2) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party with respect to the purchase or sale of electric energy or capacity from or to a facility under this section under any contract or obligation to purchase or to sell electric energy or capacity on the date of enactment of this subsection, including—

''(A) the right to recover costs of purchasing such electric energy or capacity; and

''(B) in States without competition for retail electric supply, the obligation of a utility to provide, at just and reasonable rates for consumption by a qualifying small power production facility or a qualifying cogeneration facility, backup, standby, and maintenance power.

''(3) RECOVERY OF COSTS.—

''(a) REGULATION.—To ensure recovery by an electric utility that purchases electric energy or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed under this section before the date of enactment og this subsection, of all prudently incusred costs associated with the purchases, the Commission shall issue and enforce such regulations as may be required to ensure that the electric utility shall collect the prudently incurred costs associated with such purchases.

''(B) ENFORCEMENT.—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.).''.

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

''(C) 'qualifying small power production facility' means a small power production facility that the Commission determinesl by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.''.

(2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

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

SEC. 245. NET METERING.

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

''SEC. 605. NET METERING FOR RENEWABLE ENERGY AND FUEL CELLS.

''(a) DEFINITIONS.—For purposes of this section:

''(1) The term 'eligible on-site generating facility' means—

''(A) a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or

''(B) a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

''(2) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

''(3) The term 'high efficiency system' means fuel cells or combined heat and power.

''(4) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer 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.

''(b) REQUIREMENT TO PROVIDE NET METERING SERVICE.—Each electric utility shall make available upon request net metering service to an electric consumer that the electric utility serves.

''(c) RATES AND CHARGES.—

''(1) IDENTICAL CHARGES.—An electric utility—

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

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

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

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

''(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY SUPPLIED.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(d) SAFETY AND PERFORMANCE STANDARDS.—

''(1) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(2) The Commission, after consultation with State regulatory authorities and nonregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

''(e) APPLICATION.—This section applies to each electric utility during any calendar year in which the total sales of electric energy by such utility for purposes other than resale exceeded 1,000,000,000 kilowatt-hours during the preceding calendar year.''.

Subtitle D—Consumer Protections

SEC. 251. INFORMATION DISCLOSURE.

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

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

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

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

(4) information the Federal Trade Commission determines is technologically and economically feasible to provide, is of assistance to electric consumers in making purchasing decisions, and concerns—

(A) the product or its price,

(B) the share of electric energy that is generated by each fuel type; and

(C) the environmental emissions produced in generating the electric energy.

(b) PERIODIC BILLINGS.—The Federal Trade Commission shall issue rules requiring any electric utility that sells electric energy to transmit to each of its electric consumers, in addition to the information transmitted pursuant to section 115(f) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625(f)), a clear and concise statement containing the information described in subsection (a)(4) for each billing period (unless such information is not reasonably ascertainable by the electric utility).

SEC. 252. CONSUMER PRIVACY.

(a) PROHIBITION.—The Federal Trade Commission shall issue rules prohibiting any electric utility that obtains consumer information in connection with the sale or delivery of electric energy to an electric consumer from using, disclosing, or permitting access to such information unless the electric consumer to whom such information relates provides prior written approval.

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

(1) to facilitate an electric consumer's change in selection of an electric utility under procedures approved by the State or State regulatory authority;

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

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

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

(5) for law enforcement purposes; or

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

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

(d) DEFINITIONS.—As used in this section:

(1) The term ''aggregate consumer information'' means collective data that relates to a group or category of retail electric consumers, from which individual consumer identities and characteristics have been removed.

(2) The term ''consumer information'' means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to any retail electric consumer.

SEC. 253. UNFAIR TRADE PRACTICES.

(a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer.

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

SEC. 254. APPLICABLE PROCEDURES.

The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule required by this subtitle.

SEC. 255. FEDERAL TRADE COMMISSION ENFORCEMENT.

Violation of a rule issued under this subtitle shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices. All functions and powers of the Federal Trade Commission under such Act are available to the Federal Trade Commission to enforce compliance with this subtitle notwithstanding any jurisdictional limits in such Act.

SEC. 256. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing additional laws, rules, or procedures regarding the practices which are the subject of this section, so long as such laws, rules, or procedures are not inconsistent with the provisions of this section or with any rule prescribed by the Federal Trade Commission pursuant to it.

SEC. 257. APPLICATION OF SUBTITLE.

The provisions of this subtitle apply to each electric utility if the total sales of electric energy by such utility for purposes other than resale exceed 500 million kilowatthours per calendar year. The provisions of this stubtitle do not apply to the operations of an electric utility to the extent that such operations relate to sales of electric energy for purposes of resale.

SEC. 258. DEFINITIONS.

As used in this subtitle:

(1) The term ''aggregate consumer information'' means collective data that relates to a group or category of electric consumers, from which individual consumer identities and identifying characteristics have been removed.

(2) The term ''consumer information'' means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to an electric consumer.

(3) The terms ''electric consumer'', ''electric utility'', and ''State regulatory authority'' have the meanings given such terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle E—Renewable Energy and Rural Construction Grants

SEC. 261. 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 the following:

''. The Secretary shall establish other procedures necessary for efficient administration of the program. The Secretary shall not establish any criteria or procedures that have the effect of assigning to proposals a higher or lower priority for eligibility or allocation of appropriated funds on the basis of the energy source proposed.''.

(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 the following:

''an electricity-generating cooperative exempt from taxation under section 501(c)(12) or section 1381(a)(2)(C) of the Internal Revenue Code of 1986, a public utility described in section 115 of such Code, 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, incremental hydropower, ocean'' 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 ''before October 1, 2013''.

(d) PAYMENT PERIOD.—Section 1212(d) of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended by inserting ''or in which the Secretary finds that all necessary Federal and State authorizations have been obtained to begin construction of the facility'' after ''eligible for such payments''.

(e) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting ''landfill gas, incremental hydropower, ocean'' after ''wind, biomass,''.

(f) 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''.

(g) INCREMENTAL HYDROPOWER; AUTHORIZATION OF APPROPRIATIONS.—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is further amended by striking subsection (g) and inserting the following:

''(g) INCREMENTAL HYDROPOWER.—

''(1) PROGRAMS.—Subject to subsection (h)(2), if an incremental hydropower program meets the requirements of this section, as determined by the Secretary, the incremental hydropower program shall be eligible to receive incentive payments under this section.

''(2) DEFINITION OF INCREMENTAL HYDROPOWER.—In this subsection, the term 'incremental hydropower' means additional generating capacity achieved from increased efficiency or additions of new capacity at a hydroelectric facility in existence on the date of enactment of this paragraph.

''(h) 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) LIMITATION ON FUNDS USED FOR INCREMENTAL HYDROPOWER PROGRAMS.—Not more than 30 percent of the amounts made available under paragraph (1) shall be used to carry out programs described in subsection (g)(2).

''(3) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.''.

SEC. 262. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 3 months after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources available within the United States, including solar, wind, biomass, ocean, 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 one year after the date of enactment of this title, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources, and

(2) such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including 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.

SEC. 263. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President shall ensure that, of the total amount of electric energy the federal government consumes during any fiscal year—

(1) not less than 3 percent in fiscal years 2003 through 2004,

(2) not less than 5 percent in fiscal years 2005 through 2009, and

(3) not less than 7.5 percent in fiscal year 2010 and each fiscal year thereafter—

shall be renewable energy. The President shall encourage the use of innovative purchasing practices, including aggregation and the use of renewable energy derivatives, by federal agencies.

(b) DEFINITION.—For purposes of this section, the term ''renewable energy'' means electric energy generated from solar, wind, biomass, geothermal, fuel cells, or additional hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric dam.

(c) TRIBAL POWER GENERATION.—To the maximum extent practicable, the President shall ensure that not less than one-tenth of the amount specified in subsection (a) shall be renewable energy that is generated by an Indian tribe or by a corporation, partnership, or business association which is wholly or majority owned, directly or indirectly, by an Indian tribe. For purposes of this subsection, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 264. RURAL CONSTRUCTION GRANTS.

Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c) is amended by adding after subsection (b) the following:

''(c) RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.—The Secretary of Agriculture, in consultation with the Secretary of Energy and the Secretary of the Interior, may provide grants to eligible borrowers under this Act for the purpose of increasing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities for—

''(1) a unit of local government of a State or territory; or

''(2) an Indian tribe or Tribal College or University as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

''(d) Grant Criteria.—The Secretary shall make grants based on a determination of cost-effectiveness and most effective use of the funds to achieve the stated purposes of this section.

''(e) PREFERENCE.—In making grants under this section, the Secretary shall give a preference to renewable energy facilities.

''(f) DEFINITION.—For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska

Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

''(e) AUTHORIZATION.—For the purpose of carrying out subsection (c), there are authorized to be appropriated to the Secretary $20,000,000 for each of the seven fiscal years following the date of enactment of this subsection.''.

SEC. 265. RENEWABLE PORTFOLIO STANDARD.

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

''SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.

''(a) MINIMUM RENEWABLE GENERATION REQUIREMENT.—For each calendar year beginning with 2003, each retail electric supplier shall submit to the Secretary renewable energy credits in an amount equal to the required annual percentage, specified in subsection (b), of the total electric energy sold by the retail electric supplier to electric consumers in the calendar year. The retail electric supplier shall make this submission before April 1 of the following calendar year.

''(b) REQUIRED ANNUAL PERCENTAGE.—

''(1) For calendar years 2003 and 2004, the required annual percentage shall be determined by the Secretary in an amount less than the amount in paragraph (2);

''(2) For calendar year 2005 the required annual percentage shall be 2.5 percent of the retail electric supplier's base amount; and

''(3) For each calendar year from 2006 through 2020, the required annual percentage of the retail electric supplier's base amount shall be .5 percent greater than the required annual percentage for the calendar year immediately preceding.

''(c) SUBMISSION OF CREDITS.—(1) A retail electric supplier may satisfy the requirements of subsection (a) through the submission of—

''(A) renewable energy credits issued under subsection (d) for renewable energy generated by the retail electric supplier in the calendar year for which credits are being submitted or any of the two previous calendar years;

''(B) renewable energy credits obtained by purchase or exchange under subsection (e);

''(C) renewable energy credits borrowed against future years under subsection (f); or

''(D) any combination of credits under subparagraphs (A), (B), and (C).

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

''(d) ISSUANCE OF CREDITS.—(1) The Secretary shall establish, not later than one year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track renewable energy credits.

''(2) Under the program, an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits. The application shall indicate—

''(A) the type of renewable energy resource used to produce the electricity,

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

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

''(3)(A) Except as provided in paragraphs (B) and (C), the Secretary shall issue to an entity one renewable energy credit for each kilowatt-hour of electric energy the entity generates in calendar year 2002 and any succeeding year through the use of a renewable energy resource at an eligible facility.

''(B) For incremental hydropower the credits shall be calculated based on a normalized annual capacity factor for each facility, and not actual generation. The calculation of the credits for incremental hydropower shall not be based on any operational changes at the hydroelectric facility not directly associated with the efficiency improvements or capacity additions.

''(C) The Secretary shall issue two renewable energy credits for each kilowatt-hour of electric energy generated in calendar year 2002 and any succeeding year through the use of a renewable energy resource at an eligible facility, if the generating facility is located on Indian land. For purposes of this paragraph, renewable energy generated by biomass cofired with other fuels is eligible for two credits only if the biomass was grown on the land eligible under this paragraph.

''(D) To be eligible for a renewable energy credit, the unit of electric energy generated through the use of a renewable energy resource may be sold or may be used by the generator. If both a renewable energy resource and a non-renewable energy resource are used to generate the electric energy, the Secretary shall issue credits based on the proportion of the renewable energy resource used. The Secretary shall identify renewable energy credits by type and date of generation.

''(4) In order to receive a renewable energy credit, the recipient of a renewable energy credit shall pay a fee, calculated by the Secretary, in an amount that is equal to the administrative costs of issuing, recording, monitoring the sale or exchange of, and tracking the credit. The Secretary shall retain the fee and use it to pay these administrative costs.

''(5) When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of this Act, the retail electric supplier is treated as the generator of the electric energy for the purposes of this section for the duration of the contract.

''(e) CREDIT TRADING.—A renewable energy credit may be sold or exchanged by the entity to whom issued or by any other entity who acquires the credit. A renewable energy credit for any year that is not used to satisfy the minimum renewable generation requirement of subsection (a) for that year may be carried forward for use in another year.

''(f) CREDIT BORROWING.—At any time before the end of calendar year 2003, a retail electric supplier that has reason to believe that it will not have sufficient renewable energy credits to comply with subsection (a) may—

''(1) submit a plan to the Secretary demonstrating that the retail electric supplier will earn sufficient credits within the next 3 calendar years which, when taken into account, will enable the retail electric supplier to meet the requirements of subsection (a) for calendar year 2003 and the calendar year involved; and

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

''(g) ENFORCEMENT.—The Secretary may bring an action in the appropriate United States district court to impose a civil penalty on a retail electric supplier that does not comply with subsection (a). A retail electric supplier who does not submit the required number of renewable energy credits under subsection (a) is subject to a civil penalty of not more than 3 cents each for the renewable energy credits not submitted. Any civil penalty collected under this subsection shall be retained by the Secretary and used to carry out the purposes of section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317(a); relating to renewable energy production incentives).

''(h) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

''(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section,

''(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary, and

''(3) the quantity of electricity sales of all retail electric suppliers.

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

''(j) STATE SAVINGS CLAUSE.—This section does not preclude a State from requiring additional renewable energy generation in that State.

''(k) DEFINITIONS.—For purposes of this section—

''(1) The term 'eligible facility' means—

''(A) a facility for the generation of electric energy from a renewable energy resource that is placed in service on or after January 1, 2002; or

''(B) a repowering or cofiring increment that is placed in service on or after January 1, 2002 at a facility for the generation of electric energy from a renewable energy resource that was placed in service before January 1, 2002.

An eligible facility does not have to be interconnected to the transmission or distribution system facilities of an electric utility.

''(2) The term 'generation offset' means reduced electricity usage metered at a site where a customer consumes electricity from a renewable energy technology.

''(3) The term 'incremental hydropower' means additional generation capacity achieved from increased efficiency or additions of capacity after January 1, 2002 at a hydroelectric dam that was placed in service before January 1, 2002.

''(4) The term 'Indian land' means—

''(A) any land within the limits of any Indian reservation, pueblo or rancheria,

''(B) any land not within the limits of any Indian reservation, pueblo or rancheria title to which was on the date of enactment of this paragraph either held by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation,

''(C) any dependent Indian community, and

''(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.

''(5) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(6) The term 'renewable energy' means electric energy generated by a renewable energy resource.

''(7) The term 'renewable energy resource' means solar, wind, biomass, ocean, or geothermal energy, a generation offset, or incremental hydropower facility.

''(8) The term 'repowering or cofiring increment' means the additional generation from a modification that is placed in service

on or after January 1, 2002 to expand electricity production at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before January 1, 2002.

''(9) The term 'retail electric supplier' means a person, State agency, or Federal agency that sells electric energy to electric consumers and sold not less than 500,000,000 kilowatt-hours of electric energy to electric consumers for purposes other than resale during the preceding calendar year.

''(10) The term 'retail electric supplier's base amount' means the total amount of electric energy sold by the retail electric supplier to electric customers during the most recent calendar year for which information is available, excluding electric energy generated by a renewable energy resource, landfill gas, or a hydroelectric facility.

''(l) SUNSET.—Subsection (a) of this section expires December 31, 2020.''.

SEC. 266. RENEWABLE ENERGY ON FEDERAL LAND.

(a) COST-SHARE DEMONSTRATION PROGRAM.—Within 12 months after the date of enactment of this section, the Secretaries of the Interior, Agriculture, and Energy shall develop guidelines for a cost-share demonstration program for the development of wind and solar energy facilities on Federal land.

(b) DEFINITION OF FEDERAL LAND.—As used in this section, the term ''Federal land'' means land owned by the United States that is subject to the operation of the mineral leasing laws; and is either:

(1) public land as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1702(e)); or

(2) a unit of the National Forest System as that term is used in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(c) RIGHTS-OF-WAYS.—The demonstration program shall provide for the issuance of rights-of-way pursuant to the provisions of title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) by the Secretary of the Interior with respect to Federal land under the jurisdiction of the Department of the Interior, and by the Secretary of Agriculture with respect to federal lands under the jurisdiction of the Department of Agriculture.

(d) AVAILABLE SITES.—For purposes of this demonstration program, the issuance of rights-of-way shall be limited to areas:

(1) of high energy potential for wind or solar development;

(2) that have been identified by the wind or solar energy industry, through a process of nomination, application, or otherwise, as being of particular interest to one or both industries;

(3) that are not located within roadless areas;

(4) where operation of wind or solar facilities would be compatible with the scenic, recreational, environmental, cultural, or historic values of the Federal land, and would not require the construction of new roads for the siting of lines or other transmission facilities; and

(5) where issuance of the right-of-way is consistent with the land and resource management plans of the relevant land management agencies.

(e) COST-SHARE PAYMENTS BY DOE.—The Secretary of Energy, in cooperation with the Secretary of the Interior with respect to Federal land under the jurisdiction of the Department of the Interior, and the Secretary of Agriculture with respect to Federal land under the jurisdiction of the Department of Agriculture, shall determine if the portion of a project on federal land is eligible for financial assistance pursuant to this section. Only those projects that are consistent with the requirements of this section and further the purposes of this section shall be eligible. In the event a project is selected for financial assistance, the Secretary of Energy shall provide no more than 15 percent of the costs of the project on the federal land, and the remainder of the costs shall be paid by non-Federal sources.

(f) REVISION OF LAND USE PLANS.—The Secretary of the Interior shall consider development of wind and solar energy, as appropriate, in revisions of land use plans under section 202 of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1712); and the Secretary of Agriculture shall consider development of wind and solar energy, as appropriate, in revisions of land and resource management plans under section 5 of the Forest an Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). Nothing in this subsection shall preclude the issuance of a right-of-way for the development of a wind or solar energy project prior to the revision of a land use plan by the appropriate land management agency.

(g) REPORT TO CONGRESS.—Within 24 months after the date of enactment of this section, the Secretary of the Interior shall develop and report to Congress recommendations on any statutory or regulatory changes the Secretary believes would assist in the development of renewable energy on Federal land. The report shall include—

(1) a five-year plan developed by the Secretary of the Interior, in cooperation with the Secretary of Agriculture, for encouraging the development of wind and solar energy on Federal land in an environmentally sound manner; and

(2) an analysis of—

(A) whether the use of rights-of-ways is the best means of authorizing use of Federal land for the development of wind and solar energy, or whether such resources could be better developed through a leasing system, or other method;

(B) the desirability of grants, loans, tax credits or other provisions to promote wind and solar energy development on Federal land; and

(C) any problems, including environmental concerns, which the Secretary of the Interior or the Secretary of Agriculture have encountered in managing wind or solar energy projects on Federal land, or believe are likely to arise in relation to the development of wind or solar energy on Federal land;

(3) a list, developed in consultation with the Secretaries of Energy and Defense, of lands under the jurisdiction of the Departments of Energy and Defense that would be suitable for development for wind or solar energy, and recommended statutory and regulatory mechanisms for such development; and

(4) an analysis, developed in consultation with the Secretaries of Energy and Commerce, of the potential for development of wind, solar, and ocean energy on the Outer Continental Shelf, along with recommended statutory and regulatory mechanisms for such development.

TITLE III—HYDROELECTRIC RELICENSING

SEC. 301. ALTERNATIVE MANDATORY CONDITIONS AND FISHWAYS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

''(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls deems a condition to such license to be necessary under the first proviso of subsection (e), the license applicant or any other party to the licensing proceeding may propose an alternative condition.

''(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

''(A) provides no less protection for the reservation than provided by the condition deemed necessary 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 condition deemed necessary by the Secretary.

''(3) Within 1 year after the enactment of this subsection, each Secretary concerned shall, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.''.

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

''(1) inserting '(a)' before the first sentence; and

''(2) adding at the end the following:

''(b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, the licensee or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

''(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, 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 party proposing such alternative, that the alternative—

''(A) will be no less effective than the fishway initially prescribed by the Secretary, and

''(B) will either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production,

as compared to the fishway initially prescribed by the Secretary.

''(3) Within 1 year after the enactment of this subsection, the Secretary of the Interior and the Secretary of Commerce shall each, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.''.

SEC. 302. CHARGES FOR TRIBAL LANDS.

Section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1) is amended by inserting after the second proviso the following:

''*Provided further*, that the Commission shall not issue a new or original license for projects involving tribal lands embraced within Indian reservations until annual charges required under this section have been fixed.''

SEC. 303. DISPOSITION OF HYDROELECTRIC CHARGES.

Section 17 of the Federal Power Act (16 U.S.C. 810) is further amended—

(1) by striking ''to be expended under the direction of the Secretary of the Army in the maintenance and operation of dams and other navigation structures owned by the

United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States.''; and

(2) by inserting in lieu thereof the following: ''to be expended in the following manner on an annual basis: (A) fifty-percent of the funds shall be expended by the Secretary of the Interior pursuant to a grant program to be established by the Secretary to support collaborative watershed restoration and education activities intended to promote the recovery of candidate, threatened, and endangered species under the Endangered Species Act of 1973; and (B) fifty-percent of the funds shall be expended by the Secretary of Agriculture, acting through the Chief of the Forest Service, for the Youth Conservation Corps program.''.

SEC. 304. ANNUAL LICENSES.

Section 15(a) of the Federal Power Act (16 U.S.C. 808(a)) is amended by adding at the end the following:

''(4) Prior to issuing a fourth and subsequent annual license under paragraph (1), the Commission shall first consult with the Secretary of the Interior and the Secretary of Commerce, and if the project is within any reservation, with the Secretary under whose supervision such reservation falls.

''(5) Prior to issuing a fourth and subsequent annual license under paragraph (1), the Commission shall publish a written statement setting forth the reasons why the annual license is needed, and describing the results of consultation with the Secretary of the Interior, the Secretary of Commerce, and the Secretary under whose supervision the reservation falls. Such explanation shall also contain the best judgment of the Commission as to whether the Commission anticipates issuing an additional annual license.

''(6) At least 60 days prior to expiration of the seventh and subsequent annual licenses issued under paragraph (1), the Commission shall submit to Congress the written statement required in paragraph (5).''.

SEC. 305. ENFORCEMENT.

(a) MONITORING AND INVESTIGATIONS OF MANDATORY CONDITIONS AND FISHWAY PRESCRIPTIONS.—The first sentence of section 31(a) of the Federal Power Act (16 U.S.C. 823b(a)) is amended to read as follows:

''The Commission shall monitor and investigate compliance with each license and permit issued under this Part, each condition imposed under section 4(e) or 4(h), each fishway prescription imposed under section 18, and each exemption granted from any requirement of this Part.''

(b) COMPLIANCE ORDERS.—The third sentence of section 31(a) of the Federal Power Act (16 U.S.C. 823(a)) is amended to read as follows:

''After notice and opportunity for public hearing, the Commission may issue such orders as necessary to require compliance with the terms and conditions of licenses and permits issued under this Part, with conditions imposed under section 4(e) or 4(h), with fishway prescriptions imposed under section 18, and with the terms and conditions of exemptions granted from any requirement of this Part.''

SEC. 306. ESTABLISHMENT OF HYDROELECTRIC RELICENSING PROCEDURES.

(a) JOINT PROCEDURES OF THE COMMISSION AND RESOURCE AGENCIES.—

(1) Within 18 months after the date of enactment of this section, the Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, shall, after consultation with the interested states and public review and comment, issue coordinated regulations governing the issuance of a license under section 15 of the Federal Power Act (16 U.S.C. 808).

(2) Such regulations shall provide for—

(A) the participation of the Commission in the pre-application environmental scoping process conducted by the resource agencies pursuant to section 15(b) of the Federal Power Act (16 U.S.C. 808(b)), sufficient to allow the Commission and the resource agencies to coordinate environmental reviews and other regulatory procedures of the Commission and the resource agencies under Part I of the Federal Power Act, and under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) issuance by the resource agencies of draft and final mandatory conditions under section 4(e) of the Federal Power Act (16 U.S.C. 797(e)), and draft and final fishway prescriptions under section 18 of the Federal Power Act (16 U.S.C. 811);

(C) to the maximum extent possible, identification by the Commission staff in the draft analysis of the license application conducted under the National Environmental Policy Act, of all license articles and license conditions the Commission is likely to include in the license;

(D) coordination by the Commission and the resource agencies of analysis under the National Environmental Policy Act for final license articles and conditions recommended by Commission staff, and the final mandatory conditions and fishway prescriptions of the resource agencies;

(E) procedures for ensuring coordination and sharing, to the maximum extent possible, of information, studies, data and analysis by the Commission and the resource agencies to reduce the need for duplicative studies and analysis by license applicants and other parties to the license proceeding; and

(F) procedures for ensuring resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant.

(b) PROCEDURES OF THE COMMISSION.—Within 18 months after the date of enactment of this section, the Commission shall, after consultation with the interested federal agencies and states and after public comment and review, issue additional regulations governing the issuance of a license under section 15 of the Federal Power Act (16 U.S.C. 808). Such regulations shall—

(1) set a schedule for the Commission to issue—

(A) a tendering notice indicating that an application has been filed with the Commission;

(B) advanced notice to resource agencies of the issuance of the Ready for Environmental Analysis Notice requesting submission of recommendations, conditions, prescriptions, and comments;

(C) a license decision after completion of environmental assessments or environmental impact statements prepared pursuant to the National Environmental Policy Act; and

(D) responses to petitions, motions, complaints and requests for rehearing;

(2) set deadlines for an applicant to conduct all needed resource studies in support of its license application;

(3) ensure a coordinated schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes and other parties, through final decision on the application; and

(4) provide for the adjustment of schedules if unavoidable delays occur.

SEC. 307. RELICENSING STUDY.

(a) IN GENERAL.—The Federal Energy Regulatory Commission shall, jointly with the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture, conduct a study of all new licenses issued for existing projects under section 15 of the Federal Power Act (16 U.S.C. 808) since January 1, 1994.

(b) SCOPE.—The study shall analyze:

(1) the length of time the Commission has taken to issue each new license for an existing project;

(2) the additional cost to the licensee attributable to new license conditions;

(3) the change in generating capacity attributable to new license conditions;

(4) the environmental benefits achieved by new license conditions;

(5) significant unmitigated environmental damage of the project and costs to mitigate such damage; and

(6) litigation arising from the issuance or failure to issue new licenses for existing projects under section 15 of the Federal Power Act or the imposition or failure to impose new license conditions.

(c) DEFINITION.—As used in this section, the term ''new license condition'' means any condition imposed under—

(1) section 4(e) of the Federal Power Act (16 U.S.C. 797(e)),

(2) section 10(a) of the Federal Power Act (16 U.S.C. 803(a)),

(2) section 10(e) of the Federal Power Act (16 U.S.C. 803(e)),

(3) section 10(j) of the Federal Power Act (16 U.S.C. 803(j)),

(4) section 18 of the Federal Power Act (16 U.S.C. 811), or

(5) section 401(d) of the Clean Water Act (33 U.S.C. 1341(d)).

(d) CONSULTATION.—The Commission shall give interested persons and licensees an opportunity to submit information and views in writing.

(e) REPORT.—The Commission shall report its findings to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives not later than 24 months after the date of enactment of this section.

SEC. 308. DATA COLLECTION PROCEDURES.

Within 24 months after the date of enactment of this section, the Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall jointly develop procedures for ensuring complete and accurate information concerning the time and cost to parties in the hydroelectric licensing process under part I of the Federal Power Act (16 U.S.C. 791 et seq.). Such data shall be published regularly, but no less frequently than every three years.

TITLE IV—INDIAN ENERGY

SEC. 401. COMPREHENSIVE INDIAN ENERGY PROGRAM.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501–3506) is amended by adding after section 2606 the following:

''SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.

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

''(1) the term 'Director' means the Director of the Office of Indian Energy Policy and Programs established by section 217 of the Department of Energy Organization Act, and

''(2) the term 'Indian land' means—

''(A) any land within the limits of an Indian reservation, pueblo, or rancheria; ''(B) any land not within the limits of an Indian reservation, pueblo, or rancheria whose title on the date of enactment of this section was held—

''(i) in trust by the United States for the benefit of an Indian tribe,

''(ii) by an Indian tribe subject to restriction by the United States against alienation, or

''(iii) by a dependent Indian community; and

''(C) land conveyed to an Alaska Native Corporation under the Alaska Native Claims Settlement Act.

''(b) INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE.—

''(1) The Director shall establish programs within the Office of Indian Energy Policy and Programs to assist Indian tribes in meeting their energy education, research and development, planning, and management needs.

''(2) The Director may make grants, on a competitive basis, to an Indian tribe for—

''(A) renewable energy, energy efficiency, and conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

''(C) planning, constructing, developing, operating, maintaining, and improving tribal electrical generation, transmission, and distribution facilities; and

''(D) developing, constructing, and interconnecting electric power transmission facilities with transmission facilities owned and operated by a Federal power marketing agency or an electric utility that provides open access transmission service.

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

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

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

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

''(D) financial or other assets available to the Indian tribe from any source.

''(4) In making a grant under paragraph (2), the Director shall give priority to an application received from an Indian tribe that is not served or is served inadequately by an electric utility, as that term is defined in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)), or by a person, State agency, or any other non-federal entity that owns or operates a local distribution facility used for the sale of electric energy to an electric consumer.

''(5) There are authorized to be appropriated to the Department of Energy such sums as may be necessary to carry out the purposes of this section.

''(6) The Secretary is authorized to promulgate such regulations as the Secretary determines to be necessary to carry out the provisions of this subsection.

''(c) LOAN GUARANTEE PROGRAM.—

''(1) Authority.—The Secretary may guarantee not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development, including the planning, development, construction, and maintenance of electrical generation plants, and for transmission and delivery mechanisms for electricity produced on Indian land. A loan guaranteed under this subsection shall be made by—

''(A) a financial institution subject to the examination of the Secretary; or

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

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

''(3) AUTHORIZATION OF APPROPRIATIONS.—

''(A) There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

''(B) There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the administrative expenses related to carrying out the loan guarantee program established by this subsection.

''(4) LIMITATION ON AMOUNT.—The aggregate outstanding amount guaranteed by the Secretary of Energy at any one time under this subsection shall not exceed $2,000,000,000.

''(5) REGULATIONS.—The Secretary is authorized to promulgate such regulations as the Secretary determines to be necessary to carry out the provisions of this subsection.

''(d) INDIAN ENERGY PREFERENCE.—(1) An agency or department of the United States Government may give, in the purchase of electricity, oil, gas, coal, or other energy product or by-product, preference in such purchase to an energy and resource production enterprise, partnership, corporation, or other type of business organization majority or wholly owned and controlled by a tribal government.

''(2) In implementing this subsection, an agency or department shall pay no more than the prevailing market price for the energy product or by-product and shall obtain no less than existing market terms and conditions.

''(e) EFFECT ON OTHER LAWS.—This section does not—

''(1) limit the discretion vested in an Administrator of a Federal power marketing agency to market and allocate Federal power, or

''(2) alter Federal laws under which a Federal power marketing agency markets, allocates, or purchases power.''.

SEC. 402. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

Title II of the Department of Energy Organization Act is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

''SEC. 217. (a) There is established within the Department an Office of Indian Energy Policy and Programs. This Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at the rate equal to that of level IV of the Executive Schedule under section 5315 of Title 5, United States Code.

''(b) The Director shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote tribal energy efficiency and utilization;

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

''(3) preserve and promote tribal sovereignty and self determination related to energy matters and energy deregulation;

''(4) lower or stabilize energy costs; and

''(5) electrify tribal members'' homes and tribal lands.

''(c) The Director shall carry out the duties assigned the Secretary or the Director under title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.).''.

SEC. 403. CONFORMING AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2603(c) of the Energy Policy Act of 1992 (25 U.S.C. 3503(c)) is amended to read as follows:

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

(b) TABLE OF CONTENTS.—The Table of Contents of the Department of Energy Act is amended by inserting after the item relating to section 216 the following new item:

''Sec. 217. Office of Indian Energy Policy and Programs.''.

(c) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Inspector General, Department of Energy.''.

SEC. 404. SITING ENERGY FACILITIES ON TRIBAL LANDS.

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

(1) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, except that such term does not include any Regional Corporation as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(2) INTERESTED PARTY.—The term ''interested party'' means a person whose interests could be adversely affected by the decision of an Indian tribe to grant a lease or right-of-way pursuant to this section.

(3) PETITION.—The term ''petition'' means a written request submitted to the Secretary for the review of an action (or inaction) of the Indian tribe that is claimed to be in violation of the approved tribal regulations;

(4) RESERVATION.—The term ''reservation'' means—

(A) with respect to a reservation in a State other than Oklahoma, all land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, federal statute, secretarial order, or judicial determination;

(B) with respect to a reservation in the State of Oklahoma, all land that is—

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

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

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

(6) TRIBAL LANDS.—The term ''tribal lands'' means any tribal trust lands or other lands owned by an Indian tribe that are within a reservation, or tribal trust lands located contiguous thereto.

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

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

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

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

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

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

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

(e) TRIBAL REGULATION REQUIREMENTS.—

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

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

(B) term of the conveyance;

(C) amendments and renewals;

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

(E) technical or other relevant requirements;

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

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

(H) final approval authority.

(2) No lease or right-of-way shall be valid unless authorized in compliance with the approved tribal regulations.

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

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

(B) identification of proposed mitigation;

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

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

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

(5) If the Indian tribe executes a lease or right-of-way pursuant to tribal regulations required under this subsection, the Indian tribe shall provide the Secretary with—

(A) a copy of the lease or right-of-way document and all amendments and renewals thereto; and

(B) in the case of regulations or a lease or right-of-way that permits payment to be made directly to the Indian tribe, documentation of the payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under existing law.

(6) The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under this subsection, including the Indian tribe.

(7) (A) An interested party may, after exhaustion of tribal remedies, submit, in a timely manner, a petition to the Secretary to review the compliance of the Indian tribe with any tribal regulations approved under this subsection. If upon such review, the Secretary determines that the regulations were violated, the Secretary may take such action as may be necessary to remedy the violation, including rescinding or holding the lease or right-of-way in abeyance until the violation is cured. The Secretary may also rescind the approval of the tribal regulations and reassume the responsibility for approval of leases or rights-of-way associated with the facilities addressed in this section.

(B) If the Secretary seeks to remedy a violation described in subparagraph (A), the Secretary shall—

(i) make a written determination with respect to the regulations that have been violated;

(ii) provide the Indian tribe with a written notice of the alleged violation together with such written determination; and

(iii) prior to the exercise of any remedy or the rescission of the approval of the regulations involved and reassumption of the lease or right-of-way approval responsibility, provide the Indian tribe with a hearing and a reasonable opportunity to cure the alleged violation.

(C) The tribe shall retain all rights to appeal as provided by regulations promulgated by the Secretary.

(f) AGREEMENTS.—

(1) Agreements between an Indian tribe and a business entity that are directly associated with the development of electric generation, transmission or distribution facilities, or facilities to process or refine renewable or nonrenewable energy resources developed on tribal lands, shall not separately require the approval of the Secretary pursuant to section 18 of title 25, United States Code, so long as the activity that is the subject of the agreement has been the subject of an environmental review process pursuant to subsection (e) of this section.

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

(g) DISCLAIMER.—Nothing in this section is intended to modify or otherwise affect the applicability of any provision of the Indian Mineral Leasing Act of 1938 (25 U.S.C. 396a–396g); Indian Mineral Development Act of 1982 (25 U.S.C. 2101–2108); Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1328); any amendments thereto; or any other laws not specifically addressed in this section.

SEC. 405. INDIAN MINERAL DEVELOPMENT ACT REVIEW.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a review of the activities that have been conducted by the governments of Indian tribes under the authority of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report containing:

(1) the results of the review;

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

(3) an analysis of the barriers to the development of energy resources on Indian land, including federal policies and regulations, and make recommendations regarding the removal of those barriers.

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

SEC. 406. RENEWABLE ENERGY STUDY.

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

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

SEC. 407. FEDERAL POWER MARKETING ADMINISTRATIONS.

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

"SEC. 2608. FEDERAL POWER MARKETING ADMINISTRATIONS.

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

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

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

''(b) ASSISTANCE FOR TRANSMISSION STUDIES.—

''(1) Each Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power. The costs of such technical assistance shall be funded—

''(A) by the Administrator using non-reimbursable funds appropriated for this purpose, or

''(B) by the Indian tribe.

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

''(c) POWER ALLOCATION STUDY.—

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

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

''(B) the amount of power sold to tribes by other Power Marketing Administrations; and ''(C) existing barriers that impede tribal access to and utilization of federal power, and opportunities to remove such barriers and improve the ability of the Power Marketing Administration to facilitate the utilization of federal power by Indian tribes.

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

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

SEC. 408. FEASIBILITY STUDY OF COMBINED WIND AND HYDROPOWER DEMONSTRATION PROJECT.

(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army

and the Secretary of the Interior, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

(b) SCOPE OF STUDY.—The study shall—

(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

(3) assess the wind energy resource potential on tribal lands and projected cost savings through a blend of wind and hydropower over a thirty-year period; and

(4) include a preliminary interconnection study and a determination of resource adequacy of the Upper Great Plains Region of the Western Area Power Administration;

(5) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

(6) include an independent tribal engineer as a study team member.

(c) REPORT.—The Secretary of Energy and Secretary of the Army shall submit a report to Congress not later than one year after the date of enactment of this title. The Secretaries shall include in the report—

(1) an analysis of the potential energy cost savings to the customers of the Western Area Power Administration through the blend of wind and hydropower;

(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production and provide Missouri River management flexibility;

(3) recommendations for a demonstration project which the Western Area Power Administration could carry out in partnership with an Indian tribal government or tribal government energy consortium to demonstrate the feasibility and potential of using wind energy produced on Indian lands to supply firming energy to the Western Area Power Administration or other Federal power marketing agency; and

(4) an identification of the economic and environmental benefits to be realized through such a federal-tribal partnership and identification of how such a partnership could contribute to the energy security of the United States.

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

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 to carry out this section, which shall remain available until expended. All costs incurred by the Western Area Power Administration associated with performing the tasks required under this section shall be non-reimbursable.

TITLE V—NUCLEAR POWER

Subtitle A—Price-Anderson Act Reauthorization

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2002''.

SEC. 502. EXTENSION OF DEPARTMENT OF ENERGY INDEMNIFICATION AUTHORITY.

Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until August 1, 2002,''.

SEC. 503. 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 agreements 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 claims 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 such 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 the enactment of the Price-Anderson Amendments Act of 2002, 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 by striking ''paragraph (3)'' and inserting ''paragraph (2)(B)''.

SEC. 504. 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. 505. 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 ''August 1, 2008''.

SEC. 506. INFLATION ADJUSTMENT.

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

(1) by renumbering paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5–year period following July 1, 2002, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) such date of enactment, in the case of the first adjustment under this paragraph; or

''(B) the previous adjustment under this paragraph.''.

SEC. 507. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy 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., a civil penalty for a violation under subsection a. shall not exceed the amount of the fee paid under the contract under which such violation occurs for any not-for-profit contractor, subcontractor, or supplier.

''(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, or may lawfully inure, to the benefit of any natural person or for-profit artificial person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

SEC. 508. EFFECTIVE DATE.

The amendments made by sections 503(a) and 504 shall not apply to any nuclear incident that occurs before the date of the enactment of this subtitle.

Subtitle B—Miscellaneous Provisions

SEC. 511. URANIUM SALES.

(a) INVENTORY SALES.—Section 3112(d) of the USEC Privatization Act (42 U.S.C. 2297h–10(d)) is amended to read as follows:

''(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (b), (c), and (e), the Secretary may, from time to time, sell or transfer uranium (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, and depleted uranium) from the Department of Energy's stockpile.

''(2) Except as provided in subsections (b), (c), and (e), the Secretary may not deliver uranium in any form for consumption by end users in any year in excess of the following amounts:

''Annual Maximum Deliveries to End Users

''Year:	(million lbs. U_3O_8 equivalent)
2003 through 2009	3
2010	5
2011	5
2012	7
2013 and each year thereafter	10

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

''(A) the President determines that the material is not necessary for national security needs;

''(B) the Secretary determines, based on the written views of the Secretary of State and the Assistant to the President for National Security Affairs, that the sale or transfer will not adversely affect the national security interests of the United States;

''(C) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement; and

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

(b) EXEMPT TRANSFERS AND SALES.—Section 3112(e) of the USEC Privatization Act (42 U.S.C. 2297h–10(e)) is amended to read as follows:

''(e) EXEMPT SALES OR TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell uranium—

''(1) to the Tennessee Valley Authority for use pursuant to the Department of Energy's highly enriched uranium or tritium program, to the extent provided by law;

''(2) to research and test reactors under the University Reactor Fuel Assistance and Support Program or the Reduced Enrichment for Research and Test Reactors Program;

''(3) to USEC Inc. to replace contaminated uranium received from the Department of Energy when the United States Enrichment Corporation was privatized;

''(4) to any person for emergency purposes in the event of a disruption in supply to end users in the United States; and

''(5) to any person for national security purposes, as determined by the Secretary.''.

SEC. 512. REAUTHORIZATION OF THORIUM REIMBURSEMENT.

(a) REIMBURSEMENT OF THORIUM LICENSEES.—Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended—

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

(2) by adding at the end the following: ''Such payments shall not exceed the following amounts:

''(i) $90,000,000 in fiscal year 2002.

''(ii) $55,000,000 in fiscal year 2003.

''(iii) $20,000,000 in fiscal year 2004.

''(iv) $20,000,000 in fiscal year 2005.

''(v) $20,000,000 in fiscal year 2006.

''(vi) $20,000,000 in fiscal year 2007.

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

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Energy Policy Act of 1992 (42 U.S.C. 2296a–2) is amended by striking ''$490,000,000'' and inserting ''$715,000,000''.

(c) DECONTAMINATION AND DECOMMISSIONING FUND.—Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1(a)) is amended—

(1) by striking ''$488,333,333'' and inserting ''$518,233,333 ''; and

(2) by inserting after ''inflation'' the following: ''beginning on the date of enactment of the Energy Policy Act of 1992''.

SEC. 513. FAST FLUX TEST FACILITY.

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

(1) any atomic energy defense activity,

(2) any space-related mission, or

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

DIVISION B—DOMESTIC OIL AND GAS PRODUCTION AND TRANSPORTATION

TITLE VI—OIL AND GAS PRODUCTION

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

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

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

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

(2) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act) and its heading.

(b) Amendment to Title II of the Energy Policy and Conservation Act.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by striking section 256(h) (42 U.S.C. 6276(h)) and inserting—

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.''.

(2) by 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) and its heading.

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

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

(a) TIMELY ACTION ON LEASES AND PERMITS.—The Secretary of the Interior shall provide for the timely leasing of lands otherwise available for leasing for oil or gas production and timely action on applications for permits to drill under section 17 of the Mineral Leasing Act (30 U.S.C. 226) on lands otherwise available for leasing. To ensure timely action on oil and gas leases and applications for permits to drill, the Secretary shall—

(1) ensure expeditious compliance with the requirements 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;

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

(4) improve inspection and enforcement activities related to oil and gas leases.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraphs (1) through (4) of subsection (a), there are authorized to be appropriated to the Secretary of the Interior $60,000,000 for each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226).

SEC. 603. OIL AND GAS LEASE ACREAGE LIMITATIONS.

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

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

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

(A) abandoned;

(B) orphaned; or

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

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

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

(4) In carrying out the program, the Secretary of the Interior shall work cooperatively with the Secretary of Agriculture and the states within which the federal lands are located, and shall consult with the Secretary of Energy, and the Interstate Oil and Gas Compact Commission.

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

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

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

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

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

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

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

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

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

SEC. 606. OFFSHORE DEVELOPMENT.

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

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

SEC. 607. COALBED METHANE STUDY.

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

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

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

(2) depletion of groundwater aquifers or drinking water sources associated with production of coalbed methane;

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

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

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

(d) COMPLETION OF STUDY.—The National Academy of Sciences shall submit the study to the Secretary of the Interior within 18 months after the date of enactment of this Act, and shall make the study available to the public at the same time.

(e) REPORT TO CONGRESS.—The Secretary of the Interior shall report to Congress within 6 months of her receipt of the study on—

(1) the findings and recommendations of the study;

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

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

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

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

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

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

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

(3) assess the extent to which federal and state fiscal policies negatively impact the ultimate recovery of resources from existing fields and smaller accumulations in offshore waters, especially in water depths less than 800 meters, of the Gulf of Mexico;

(4) compare existing federal and state policies with tax and royalty regimes in other countries with particular emphasis on similar geological, developmental and infrastructure conditions; and

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

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

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

(2) minimize the negative impact of a volatile investment climate on the oil and gas service industry and domestic oil and gas exploration and production;

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

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

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

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

SEC. 609. STRATEGIC PETROLEUM RESERVE.

(a) FULL CAPACITY.—The President shall—

(1) fill the Strategic Petroleum Reserve established pursuant to part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) to full capacity as soon as practicable;

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

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

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

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

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

TITLE VII—NATURAL GAS PIPELINES

Subtitle A—Alaska Natural Gas Pipeline

SEC. 701. SHORT TITLE.

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

SEC. 702. FINDINGS.

The Congress finds that:

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

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

SEC. 703. PURPOSES.

The purposes of this subtitle are—

(1) to expedite the approval, construction, and initial operation of one or more transportation systems for the delivery of Alaska natural gas to the contiguous United States;

(2) to ensure access to such transportation systems on an equal and nondiscriminatory basis and to promote competition in the exploration, development and production of Alaska natural gas; and

(3) to provide federal financial assistance to any transportation system for the transport of Alaska natural gas to the contiguous United States, for which an application for a certificate of public convenience and necessity is filed with the Commission not later than 6 months after the date of enactment of this subtitle.

SEC. 704. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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

(b) ISSUANCE OF CERTIFICATE.—

(1) The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has-

(A) entered into a contract to transport Alaska natural gas through the proposed Alaska natural gas transportation project for use in the contiguous United States; and

(B) satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

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

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

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

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public and convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section not more than 60 days after the issuance of the final environmental impact statement for that project pursuant to section 704.

(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—All reviews conducted and actions taken by any federal officer or agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines set forth in this subtitle.

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

SEC. 705. ENVIRONMENTAL REVIEWS.

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 704 shall be treated as a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

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

(c) OTHER AGENCIES.—All Federal agencies considering aspects of the construction and operation of an Alaska natural gas transportation project section 704 shall cooperate with the Commission, and shall comply with deadlines established by the Commission in the preparation of the statement under this section. The statement prepared under this section shall be used by all such agencies to satisfy their responsibilities under section

102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to such project.

(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section not later than 12 months after the Commission determines the application to be complete and shall issue the final statement not later than 6 months after the Commission issues the draft statement, unless the Commission for good cause finds that additional time is needed.

(e) UPDATED ENVIRONMENTAL REVIEWS UNDER ANGTA.—The Secretary of Energy shall require the sponsor of the Alaska Natural Gas Transportation System to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's Decision.

SEC. 706. FEDERAL COORDINATOR.

(a) ESTABLISHMENT.—There is established as an independent establishment in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) THE FEDERAL COORDINATOR.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall—

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

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

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

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

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

(2) ensuring the compliance of Federal agencies with the provisions of this subtitle.

SEC. 707. JUDICIAL REVIEW.

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

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

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

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

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

SEC. 708. LOAN GUARANTEE.

(a) AUTHORITY.—The Secretary of Energy may guarantee not more than 80 percent of the principal of any loan made to the holder of a certificate of public convenience and necessity issued under section 704(b) of this Act or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) for the purpose of constructing an Alaska natural gas transportation project.

(b) CONDITIONS.—

(1) The Secretary of Energy may not guarantee a loan under this section unless the guarantee has filed an application for a certificate of public convenience and necessity under section 704(b) of this Act or for an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) with the Commission not later than 6 months after the date of enactment of this subtitle.

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

(3) Loan requirements, including term, maximum size, collateral requirements and other features shall be determined by the Secretary.

(c) LIMITATION ON AMOUNT.—Commitments to guarantee loans may be made by the Secretary of Energy only to the extent that the total loan principal, any part of which is guaranteed, will not exceed $10,000,000,000.

(d) REGULATIONS.—The Secretary of Energy may issue regulations to carry out the provisions of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

SEC. 709. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission within 6 months after the date of enactment of this title, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of the project.

(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a government corporation to construct an Alaska natural gas transportation project, and alternative means of providing federal financing and ownership (including alternative combinations of government and private corporate ownership) of the project.

(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).

(d) REPORT.—If the Secretary of Energy is required to conduct a study under subsection (a), he shall submit a report containing the results of the study, his recommendations, and any proposals for legislation to implement his recommendations to the Congress within 6 months after the expiration of the Secretary of Energy's authority to guarantee a loan under section 708.

SEC. 710. SAVINGS CLAUSE.

Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g).

SEC. 711. CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.

Any Federal officer or agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), so long as such action does not compel a change in the basic nature and general route of the Alaska Natural Gas Transportation System as designated and described in section 2 of the President's Decision, or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

SEC. 712. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''Alaska natural gas'' has the meaning given such term by section 4(1) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719b(1)).

(2) The term ''Alaska natural gas transportation project'' means any other natural gas pipeline system that carries Alaska natural gas from the North Slope of Alaska to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under either—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–719o); or

(B) section 704 of this subtitle.

(3) The term ''Alaska Natural Gas Transportation System'' means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President's Decision.

(4) The term ''Commission'' means the Federal Energy Regulatory Commission.

(5) The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale in interstate commerce of such gas for resale; and

(6) The term ''President's Decision'' means the Decision and Report to Congress on the Alaska Natural Gas Transportation system issued by the President on September 22, 1977 pursuant to section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719c) and approved by Public Law 95–158.

SEC. 713. SENSE OF THE SENATE.

It is the sense of the Senate that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, the Senate urges the sponsors of the pipeline project to make every effort to use steel that is manufactured or produced in North America and to negotiate a project labor agreement to expedite construction of the pipeline.

Subtitle B—Operating Pipelines

SEC. 721. APPLICATION OF HISTORIC PRESERVATION ACT TO OPERATING PIPELINES.

Section 7 of the Natural Gas Act (15 U.S.C. 717(f)) is amended by adding at the end the following:

''(i)(1) Notwithstanding the National Historic Preservation Act (16 U.S.C. 470 et seq.), a transportation facility shall not be eligible for inclusion on the National Register of Historic Places unless—

''(A) the Commission has permitted the abandonment of the transportation facility pursuant to subsection (b), or

''(B) the owner of the facility has given written consent to such eligibility.

''(2) Any transportation facility considered eligible for inclusion on the National Register of Historic Places prior to the date of enactment of this subsection shall no longer be eligible unless the owner of the facility gives written consent to such eligibility.''.

SEC. 722. ENVIRONMENTAL REVIEW AND PERMITTING OF NATURAL GAS PIPELINE PROJECTS.

(a) INTERAGENCY REVIEW.—The Chairman of the Council on Environmental Quality, in coordination with the Federal Energy Regulatory Commission, shall establish an interagency task force to develop an interagency memorandum of understanding to expedite the environmental review and permitting of natural gas pipeline projects.

(b) MEMBERSHIP OF INTERAGENCY TASK FORCE.—The task force shall consist of—

(1) the Chairman of the Council on Environmental Quality, who shall serve as the Chairman of the interagency task force,

(2) the Chairman of the Federal Energy Regulatory Commission,

(3) the Director of the Bureau of Land Management,
(4) the Director of the U.S. Fish and Wildlife Service,
(5) the Commanding General, U.S. Army Corps of Engineers,
(6) the Chief of the Forest Service,
(7) the Administrator of the Environmental Protection Agency,
(8) the Chairman of the Advisory Council on Historic Preservation, and
(9) the heads of such other agencies as the Chairman of the Council on Environmental Quality and the Chairman of the Federal Energy Regulatory Commission deem appropriate.

(c) MEMORANDUM OF UNDERSTANDING.—The agencies represented by the members of the interagency task force shall enter into the memorandum of understanding not later than one year after the date of the enactment of this section.

DIVISION C—DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

TITLE VIII—FUELS AND VEHICLES

Subtitle A—CAFE Standards and Related Matters

SEC. 801. AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) INCREASED STANDARDS.—Section 32902 of title 49, United States Code, is amended—

(1) by striking ''NON-PASSENGER AUTOMOBILES.—'' in subsection (a) and inserting ''PRESCRIPTION OF STANDARDS BY REGULATION.—''; and

(2) by striking ''(except passenger automobiles)''in subsection (a) and inserting ''(except passenger automobiles and light trucks)'';

(3) by striking subsection (b) and inserting the following:

''(b) STANDARDS FOR PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—

''(1) IN GENERAL.—The Secretary of Transportation, after consultation with the Administrator of the Environmental Protection Agency, shall prescribe average fuel economy standards for passenger automobiles and light trucks manufactured by a manufacturer in each model year beginning with model year 2005 in order to achieve a combined average fuel economy standard for passenger automobiles and light trucks for model year 2013 of at least 35 miles per gallon.

''(2) ANNUAL PROGRESS TOWARD STANDARD REQUIRED.—In prescribing average fuel economy standards under paragraph (1), the Secretary shall prescribe appropriate annual fuel economy standard increases for passenger automobiles and light trucks that—

''(A) increase the applicable average fuel economy standard ratably over the 9 model-year period beginning with model year 2005 and ending with model year 2013;

''(B) require that each manufacturer achieve—

''(i) a fuel economy standard for passenger automobiles manufactured by that manufacturer of at least 33.2 miles per gallon no later than model year 2010; and

''(ii) a fuel economy standard for light trucks manufactured by that manufacturer of at least 26.3 miles per gallon no later than model year 2010; and

''(C) for any model year within that 9 model-year period does not result in an average fuel economy standard lower than—

''(i) 27.5 miles per gallon for passenger automobiles; or

''(ii) 20.7 miles per gallon for light duty trucks.

''(3) DEADLINE FOR REGULATIONS.—The Secretary shall promulgate the regulations required by paragraphs (1) and (2) in final form no later than 18 months after the date of enactment of the Energy Policy Act of 2002.

''(4) DEFAULT STANDARDS.—If the Secretary fails to meet the requirement of paragraph (3), the average fuel economy standard for passenger automobiles and light trucks manufactured by a manufacturer in each model year beginning with model year 2005 is the average fuel economy standard set forth in the following tables:

''For model year	The average fuel economy standard for passenger automobiles is:
''2005	28 miles per gallon
''2006	28.5 miles per gallon
''2007	30 miles per gallon
''2008	31 miles per gallon
''2009	32.5 miles per gallon
''2010	34 miles per gallon
''2011	35 miles per gallon
''2012	36.5 miles per gallon
''2013 and thereafter	38.3 miles per gallon

''For model year	The average fuel economy standard for light trucks is:
''2005	21.5 miles per gallon
''2006	22.5 miles per gallon
''2007	23.5 miles per gallon
''2008	24.5 miles per gallon
''2009	26 miles per gallon
''2010	27.5 miles per gallon
''2011	29.5 miles per gallon
''2012	31 miles per gallon
''2013 and thereafter	32 miles per gallon

''(5) COMBINED STANDARD FOR MODEL YEARS AFTER MODEL YEAR 2010.—Unless the default standards under paragraph (4) are in effect, for model years after model year 2010, the Secretary may by rulemaking establish—

''(A) separate average fuel economy standards for passenger automobiles and light trucks manufactured by a manufacturer; or

''(B) a combined average fuel economy standard for passenger automobiles and light trucks manufactured by a manufacturer.'';

(4) by striking ''the standard'' in subsection (c)(1) and inserting ''a standard'';

(5) by striking the first and last sentences of subsection (c)(2); and

(6) by striking ''(and submit the amendment to Congress when required under subsection (c)(2) of this section)'' in subsection (g).

(b) DEFINITION OF LIGHT TRUCKS.—

(1) IN GENERAL.—Section 32901(a) of title 49, United States Code, is amended by adding at the end the following:

''(17) 'light truck' means an automobile that the Secretary decides by regulation—

''(A) is manufactured primarily for transporting not more than 10 individuals;

''(B) is rated at not more than 10,000 pounds gross vehicle weight;

''(C) is not a passenger automobile; and

''(D) does not fall within the exceptions from the definition of 'medium duty passenger vehicle' under section 86.1803–01 of title 40, Code of Federal Regulations.''.

(2) DEADLINE FOR REGULATIONS.—The Secretary of Transportation—

(A) shall issue proposed regulations implementing the amendment made by paragraph (1) not later than 1 year after the date of the enactment of this Act; and

(B) shall issue final regulations implementing the amendment not later than 18 months after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—Regulations prescribed under paragraph (1) shall apply beginning with model year 2007.

(c) APPLICABILITY OF EXISTING STANDARDS.—This section does not affect the application of section 32902 of title 49, United States Code, to passenger automobiles or non-passenger automobiles manufactured before model year 2005.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out the provisions of chapter 329 of title 49, United States Code, $25,000,000 for each of fiscal years 2003 through 2015.

SEC. 802. FUEL ECONOMY TRUTH IN TESTING.

(a) IN GENERAL.—Section 32907 of title 49, United States Code, is amended by adding at the end the following:

''(c) IMPROVED TESTING PROCEDURES.—

''(1) IN GENERAL.—The Administrator of the Environmental Protection Agency shall conduct—

''(A) an ongoing examination of the accuracy of fuel economy testing of passenger automobiles and light trucks by the Administrator performed in accordance with the procedures in effect as of the date of enactment of the Energy Policy Act of 2002 for the purpose of determining whether, and to what extent, the fuel economy of passenger automobiles and light trucks as tested by the Administrator differs from the fuel economy reasonably to be expected from those automobiles and trucks when driven by average drivers under average driving conditions; and

''(B) an assessment of the extent to which fuel economy changes during the life of passenger automobiles and light trucks.''.

''(2) REPORT.—The Administrator of the Environmental Protection Agency shall, within 12 months after the date of enactment of the Energy Policy Act of 2002 and annually thereafter, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the results of the study required by paragraph (1). The report shall include—

''(A) a comparison between—

''(i) fuel economy measured, for each model in the applicable model year, through testing procedures in effect as of the date of enactment of the Energy Policy Act of 2002; and

''(ii) fuel economy of such passenger automobiles and light trucks during actual on-road performance, as determined under that paragraph;

''(B) a statement of the percentage difference, if any, between actual on-road fuel economy and fuel economy measured by test procedures of the Environmental Protection Administration; and

''(C) a plan to reduce, by model year 2015, the percentage difference identified under subparagraph (B) by using uniform test methods that reflect actual on-the-road fuel economy consumers experience under normal driving conditions to no greater than 5 percent.''.

SEC. 803. ENSURING SAFETY OF PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—The Secretary of Transportation shall exercise such authority under Federal law as the Secretary may have to ensure that—

(1) passenger automobiles and light trucks (as those terms are defined in section 32901 of title 49, United States Code) are safe;

(2) progress is made in improving the overall safety of passenger automobiles and light trucks; and

(3) progress is made in maximizing United States employment.

(b) IMPROVED CRASHWORTHINESS.—Subchapter II of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''§ 30128. Improved crashworthiness

''(a) ROLLOVERS.—Within 3 years after the date of enactment of the Energy Policy Act of 2002, the Secretary of Transportation, through the National Highway Traffic Safety Administration, shall prescribe a motor vehicle safety standard under this chapter for rollover crashworthiness standards that includes—

''(1) dynamic roof crush standards;

''(2) improved seat structure and safety belt design;

''(3) side impact head protection airbags; and

''(4) roof injury protection measures.

''(b) HEAVY VEHICLE HARM REDUCTION COMPATIBILITY STANDARD.—

''(1) Within 3 years after the date of enactment of the Energy Policy Act of 2002, the Secretary, through the National Highway Traffic Safety Administration, shall prescribe a federal motor vehicle safety standard under this chapter that will reduce the aggressivity of light trucks by 30 percent, using a baseline of model year 2002, and will improve vehicle compatibility in collisions between light trucks and cars, in order to protect against unnecessary death and injury.

''(2) The Secretary should review the effectiveness of this standard every five years following final issuance of the standard and shall issue, through the National Highway Traffic Safety Administration, upgrades to the standard to reduce fatalities and injuries related to vehicle compatibility and light truck aggressivity.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30127 the following: ''30128. Improved crashworthiness''.

SEC. 804. HIGH OCCUPANCY VEHICLE EXCEPTION.

(a) IN GENERAL.—Notwithstanding section 102(a)(1) of title 23, United States Code, a State may, for the purpose of promoting energy conservation, permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if it is a hybrid vehicle or is certified by the Secretary of Transportation, after consultation with the Administrator of the Environmental Protection Agency, to be a vehicle that runs only on an alternative fuel.

(b) HYBRID VEHICLE DEFINED.—In this section, the term ''hybrid vehicle'' means a motor vehicle—

(1) which—

(A) draws propulsion energy from onboard sources of stored energy which are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; or

(B) recovers kinetic energy through regenerative braking and provides at least 13 percent maximum power from the electrical storage device;

(2) which, in the case of a passenger automobile or light truck—

(A) for 2002 and later model vehicles, has received a certificate of conformity under section 206 of the Clean Air Act (42 U.S.C. 7525) and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

(B) for 2004 and later model vehicles, has received a certificate that such vehicle meets the Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and (3) which is made by a manufacturer.

(c) ALTERNATIVE FUEL DEFINED.—In this section, the term ''alternative fuel'' has the meaning such term has under section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)).

SEC. 805. CREDIT TRADING PROGRAM.

(a) IN GENERAL.—Section 32903 of title 49, United States Code, is amended by adding at the end the following:

''(g) VEHICLE CREDIT TRADING SYSTEM.—

''(1) IN GENERAL.—The Secretary of Transportation, with technical assistance from the Administrator of the Environmental Protection Agency, may establish a system under which manufacturers with credits under this section may sell those credits to other manufacturers or transfer them among a manufacturer's fleets.

''(2) PURPOSES.—The purposes of the system are:

''(A) Reducing the adverse effects of inefficient consumption of fuel by passenger automobiles and light trucks.

''(B) Accelerating introduction of advanced technology vehicles into use in the United States.

''(C) Encouraging manufacturers to exceed the average fuel economy standards established by section 32902.

''(D) Reducing emissions of carbon dioxide by passenger automobiles and light trucks.

''(E) Decreasing the United States'' consumption of oil as vehicular fuel.

''(F) Providing manufacturers flexibility in meeting the average fuel economy standards established by section 32902.

''(G) Increasing consumer choice.

''(3) PROGRAM REQUIREMENTS.—The system established under paragraph (1) shall—

''(A) make only credits accrued after the date of enactment of the Energy Policy Act of 2002 eligible for transfer or sale;

''(B) use techniques and methods that minimize reporting costs for manufacturers;

''(C) provide for monitoring and verification of credit purchases;

''(D) require participating manufacturers to report monthly sales of vehicles to the Administrator of the Environmental Protection Agency; and

''(E) make manufacturer-specific credit, transfer, sale, and purchase information publicly available through annual reports and monthly posting of transactions on the Internet.

''(4) CREDITS MAY BE TRADED BETWEEN PASSENGER AUTOMOBILES AND LIGHT TRUCKS AND BETWEEN DOMESTIC AND IMPORT FLEETS.—The system shall provide that credits earned under this section—

''(A) with respect to passenger automobiles may be applied with respect to light trucks;

''(B) with respect to light trucks may be applied with respect to passenger automobiles;

''(C) with respect to passenger automobiles manufactured domestically may be applied with respect to passenger automobiles not manufactured domestically; and

''(D) with respect to passenger automobiles not manufactured domestically may be applied with respect to passenger automobiles manufactured domestically.

''(5) REPORT.—The Secretary and the Administrator shall jointly submit an annual report to the Congress—

''(A) describing the effectiveness of the credits provided by this subsection achieving the purposes described in paragraph (2); and

''(B) setting forth a full accounting of all credits, transfers, sales, and purchases for the most recent model year for which data is available.''.

(b) NO CARRYBACK OF CREDITS.—Section 32903(a) of title 49, United States Code, is amended—

(1) by striking ''applied to- '' and inserting ''applied—'';

(2) by inserting ''for model years before model year 2006, to'' in paragraph (1) before ''any'';

(3) by striking ''and'' after the semicolon in paragraph (1);

(4) by striking ''earned.'' in paragraph (2) and inserting ''earned; and''; and

(5) by adding at the end the following:

''(3) for model years after 2001, in accordance with the vehicle credit trading system established under subsection (g), to any of the 3 consecutive model years immediately after the model year for which the credit was earned.''.

(d) USE OF CREDIT VALUE TO CALCULATE CIVIL PENALTY.—Section 32912(b) of title 49, United States Code, is amended—

(1) by inserting ''and is unable to purchase sufficient credits under section 32903(g) to comply with the standard'' after ''title'' the first place it appears; and

(2) by striking all after ''penalty'' and inserting ''of the greater of—

''(1) an amount determined by multiplying—

''(A) the number of credits necessary to enable the manufacturer to meet that standard; by

''(B) 1.5 times the previous year's weighted average open market price of a credit under section 32903(g); or

''(2) $5 multiplied by each 0.1 of a mile a gallon by which the applicable average fuel economy standard under section 32902 exceeds the average fuel economy—

''(A) calculated under section 32904(a)(1)(A) or (B) for automobiles to which the standard applied manufactured by the manufacturer during the model year;

''(B) multiplied by the number of those automobiles; and

''(C) reduced by the credits available to the manufacturer under section 32903 for the model year.''.

(c) CONFORMING AMENDMENTS.—Section 32903 of title 49, United States Code, is amended—

(1) by inserting ''or light trucks'' after ''passenger automobiles'' each place it appears in subsection (c);

(2) by inserting after ''manufacturer.'' in subsection (d) ''Credits earned with respect to passenger automobiles may be used with respect to nonpassenger automobiles and light duty trucks.''; and

(3) by inserting after ''manufacturer.'' in subsection (e) ''Credits earned with respect to non-passenger automobiles or light trucks may be used with respect to passenger automobiles.''.

SEC. 806. GREEN LABELS FOR FUEL ECONOMY.

Section 32908 of title 49,United States Code, is amended—

(1) by striking ''title.'' in subsection (a)(1) and inserting ''title, and a light truck (as defined in section 32901(17) after model year 2005; and'';

(2) by redesignating subparagraph (F) of subsection (b)(1) as subparagraph (H), and inserting after subparagraph (E) the following:

''(F) a label (or a logo imprinted on a label required by this paragraph) that—

''(i) reflects an automobile's performance on the basis of criteria developed by the Administrator to reflect the fuel economy and greenhouse gas and other emissions consequences of operating the automobile over its likely useful life;

''(ii) permits consumers to compare performance results under clause (i) among all passenger automobiles and light duty trucks (as defined in section 32901) and with vehicles in the vehicle class to which it belongs; and

''(iii) is designed to encourage the manufacture and sale of passenger automobiles and light trucks that meet or exceed applicable fuel economy standards under section 32902.

''(G) a fuelstar under paragraph (5).''; and

(3) by adding at the end of subsection (b) the following:

''(4) GREEN LABEL PROGRAM.—

''(A) MARKETING ANALYSIS.—Within 2 years after the date of enactment of the Energy Policy Act of 2002, the Administrator shall complete a study of social marketing strategies with the goal of maximizing consumer understanding of point-of-sale labels or logos described in paragraph (1)(F).

''(B) CRITERIA.—In developing criteria for the label or logo, the Administrator shall also consider, among others as appropriate, the following factors:

''(i) The amount of greenhouse gases that will be emitted over the life-cycle of the automobile.

''(ii) The fuel economy of the automobile.

''(iii) The recyclability of the automobile.

''(iv) Any other pollutants or harmful by-products related to the automobile, which may include those generated during manufacture of the automobile, those issued during use of the automobile, or those generated after the automobile ceases to be operated.

''(5) FUELSTAR PROGRAM.—The Secretary, in consultation with the Administrator, shall establish a program, to be known as the 'fuelstar' program, under which stars shall be imprinted on or attached to the label required by paragraph (1) that will, consistent with the findings of the marketing analysis required under subsection 4(A), provide consumer incentives to purchase vehicles that exceed the applicable fuel economy standard.

SEC. 807. LIGHT TRUCK CHALLENGE.

(a) IN GENERAL.—The Secretary of Transportation shall conduct an open competition for a project to demonstrate the feasibility of multiple fuel hybrid electric vehicle powertrains in sport utility vehicles and light trucks. The Secretary shall execute a contract with the entity determined by the Secretary to be the winner of the competition under which the Secretary will provide $10,000,000 to that entity in each of fiscal years 2003 and 2004 to carry out the project.

(b) PROJECT REQUIREMENTS.—Under the contract, the Secretary shall require the entity to which the contract is awarded to—

(1) select a current model year production vehicle;

(2) modify that vehicle so that it—

(A) meets all existing vehicle performance characteristics of the sport utility vehicle or light truck selected for the project;

(B) improves the vehicle's fuel economy rating by 50 percent or more (as measured by gasoline consumption); and

(3) meet the requirements of paragraph (2) in such a way that incorporation of the modification in the manufacturer's production process would not increase the vehicle's incremental production costs by more than 10 percent.

(c) ELIGIBLE ENTRANTS.—The competition conducted by the Secretary shall be open to any entity, or consortium of nongovernmental entities, educational institutions, and not-for-profit organizations, that—

(1) has the technical capability and resources needed to complete the project successfully; and

(2) has sufficient financial resources in addition to the contract amount, if necessary, to complete the contract successfully.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $10,000,000 for each of fiscal years 2003 and 2004 to carry out this section.

SEC. 808. SECRETARY OF TRANSPORTATION TO CERTIFY BENEFITS.

Beginning with model year 2005, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall determine and certify annually to the Congress—

(1) the annual reduction in United States consumption of petroleum used for vehicle fuel, and

(2) the annual reduction in greenhouse gas emissions,

properly attributable to the implementation of the average fuel economy standards imposed under section 32902 of title 49, United States Code, as a result of the amendments made by this Act.

SEC. 809. DEPARTMENT OF TRANSPORTATION ENGINEERING AWARD PROGRAM.

(a) ENGINEERING TEAM AWARDS.—The Secretary of Transportation shall establish an engineering award program to recognize the engineering team of any manufacturer of passenger automobiles or light trucks (as such terms are defined in section 32901 of title 49, United States Code) whose work directly results in production models of—

(1) the first large sport utility vehicle, van, or light truck to achieve a fuel economy rating of 30 miles per gallon under section 32902 of such title;

(2) the first mid-sized sport utility vehicle, van, or light truck to achieve a fuel economy rating of 35 miles per gallon under section 32902 of such title; and

(3) the first mid-sized sport utility vehicle, van, or light truck to achieve a fuel economy rating of 40 miles per gallon under section 32902 of such title.

(b) MANUFACTURER'S AWARD.—The Secretary of Transportation shall establish an Oil Independence Award to recognize the first manufacturer of domestically-manufactured (within the meaning of section 32903 of title 49, United States Code) passenger automobiles and light trucks to achieve a combined fuel economy rating of 37 miles per gallon under section 32902 of such title.

(c) REQUIREMENTS FOR PARTICIPATION IN ENGINEERING TEAM AWARDS PROGRAM.—In establishing the engineering team awards program under subsection (a), the Secretary shall establish eligibility requirements that include—

(1) a requirement that the vehicle, van, or truck be domestically-manufactured or manufacturable (if a prototype) within the meaning of section 32903 of title 49, United States Code;

(2) a requirement that the vehicle, van, or truck meet all applicable Federal standards for emissions and safety (except that crash testing shall not be required for a prototype); and

(3) such additional requirements as the Secretary may require in order to carry out the program.

(d) AMOUNT OF PRIZE.—The Secretary shall award a prize of not less than $10,000 to each engineering team determined by the Secretary to have successfully met the requirements of subsection (a)(1), (2), or (3). The Secretary shall provide for recognition of any manufacturer to have met the requirements of subsection (b) with appropriate ceremonies and activities, and may provide a monetary award in an amount determined by the Secretary to be appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

SEC. 810. COOPERATIVE TECHNOLOGY AGREEMENTS.

(a) IN GENERAL.—The Secretary of Transportation, in cooperation with the Administrator of the Environmental Protection Agency, may execute a cooperative research and development agreement with any manufacturer of passenger automobiles or light trucks (as those terms are defined in section 32901 of title 49, United States Code) to implement, utilize, and incorporate in production government-developed or jointly-developed fuel economy technology that will result in improvements in the average fuel economy of any class of vehicles produced by that manufacturer of at least 55 percent greater than the average fuel economy of that class of vehicles for model year 2000.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation and the Administrator of the Environmental Protection Agency such sums as may be necessary to carry out this section.

Subtitle B—Alternative and Renewable Fuels

SEC. 811. INCREASED USE OF ALTERNATIVE FUELS BY FEDERAL FLEETS.

(a) REQUIREMENT TO USE ALTERNATIVE FUELS.—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) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels. If the Secretary determines that all dual fueled vehicles acquired pursuant to this section cannot operate on alternative fuels at all times, he may waive the requirement in part, but only to the extent that:

''(i) not later than September 30, 2003, not less than 50 percent of the total annual volume of fuel used in such dual fueled vehicles shall be from alternative fuels; and

''(ii) not later than September 30, 2005, not less than 75 percent of the total annual volume of fuel used in such dual fueled vehicles shall be from alternative fuels.''.

(b) DEFINITION OF ''DEDICATED VEHICLE''.—Section 400AA(g)(4)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6374(g)(4)(B)) is amended by inserting after ''solely on alternative fuel'' the following: '', including a three-wheeled enclosed electric vehicle having a vehicle identification number''.

SEC. 812. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.

Section 102(a)(1) of title 23, United States Code, is amended by inserting after ''required'' the following: ''(unless, in the discretion of the State transportation department, the vehicle is being operated on, or is being fueled by, an alternative fuel (as defined in section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)))''.

SEC. 813. 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) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national basis and a regional basis, including—

(1) the quantity of renewable fuels produced;

(2) the cost of production;

(3) the cost of blending and marketing;

(4) the quantity of renewable fuels consumed;

(5) the quantity of renewable fuels imported; and

(6) market price data.

SEC. 814. GREEN SCHOOL BUS PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy and the Secretary of Transportation shall jointly establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.

(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including certification requirements to ensure compliance with this subtitle.

(c) SOLICITATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals for grants under this section.

(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local governmental entity responsible for providing school bus service for one or more public school systems; or

(2) jointly to an entity described in paragraph (1) and a contracting entity that provides school bus service to the public school system or systems.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses instead of buses manufactured before model year 1977 and diesel-powered buses manufactured before model year 1991.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses instead of buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or $15,000 per bus.

(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(g) BUSES.—Funding under a grant made under this section may only be used to demonstrate the use of new alternative fuel school buses or ultra-low sulfur diesel school buses that—

(1) have a gross vehicle weight greater than 14,000 pounds;

(2) are powered by a heavy duty engine;

(3) in the case of alternative fuel school buses, emit not more than—

(A) for buses manufactured in model year 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) in the case of ultra-low sulfur diesel school buses, emit not more than the lesser of—

(A) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of the same class of ultra-low sulfur diesel school buses commercially available at the time the grant is made; or

(B) the applicable following amounts—

(i) for buses manufactured in model year 2002 or 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(ii) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(h) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel school buses through the program under this section, and shall 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) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.

(j) DEFINITIONS.—For purposes of this section—

(1) the term ''alternative fuel school bus'' means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume; and

(2) the term ''ultra-low sulfur diesel school bus'' means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

SEC. 815. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program for entering into cooperative agreements with private sector fuel cell bus developers for the development of fuel cell-powered school buses, and subsequently with not less than 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) FUNDING.—No more than $25,000,000 of the amounts authorized under section 815 may be used for carrying out this section for the period encompassing fiscal years 2003 through 2006.

(d) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006, the Secretary shall transmit to the appropriate congressional committees a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Energy for carrying out sections 814 and 815, to remain available until expended—

(1) $50,000,000 for fiscal year 2003;

(2) $60,000,000 for fiscal year 2004;

(3) $70,000,000 for fiscal year 2005; and

(4) $80,000,000 for fiscal year 2006.

SEC. 817. BIODIESEL FUEL USE CREDIT.

Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) by striking ''NOT'' in the subsection heading; and

(2) by striking ''not''.

SEC. 818. 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) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(i) dedicated energy crops and trees;

''(ii) wood and wood residues;

''(iii) plants;

''(iv) grasses;

''(v) agricultural commodities and residues;

''(vi) fibers;

''(vii) animal wastes and other waste materials; and

''(viii) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes cellulosic biomass ethanol and biodiesel (as defined in section 312(f)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)(1)).

''(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) do not exceed 65,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B)(i)(II), the motor vehicle fuel sold or introduced into commerce in the United States in calendar year 2003 or any calendar year thereafter by a refiner, blender, or importer shall contain, on a 6–month average basis, a quantity of renewable fuel, measured in gallons, that is not less than the applicable volume determined under subparagraph (B).

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEAR 2003.—For calendar year 2003—

''(I) for the purpose of subparagraph (A), the applicable volume shall be 2,000,000,000 gallons; and

''(II) subparagraph (A) shall apply only to a refiner, blender, or importer located in Petroleum Administration for Defense District II, III, or IV.

''(ii) CALENDAR YEARS 2004 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years

2004 through 2012 shall be determined in accordance with the following table:

''Calendar year:	Applicable volume of renewable fuel: (in billions of gallons)
2004	2.3
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

''(iii) 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 motor vehicle fuel that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) the number of gallons of motor vehicle fuel sold or introduced into commerce in calendar year 2012 that consists of renewable fuel; bears to

''(bb) the number of gallons of motor vehicle fuel sold or introduced into commerce in calendar year 2012.

''(3) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel.

''(4) 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 a person that refines, blends, or imports motor vehicle fuel that contains, on a 6–month average basis, a quantity of renewable fuel that is greater than the quantity required for that 6–month period under paragraph (2).

''(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) EXPIRATION OF CREDITS.—A credit generated under this paragraph shall expire 1 year after the date on which the credit was generated.

''(5) 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 1 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—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(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.

''(6) SMALL REFINERS.—The requirement of paragraph (2) shall not apply to a small refinery.

''(7) REGULATIONS.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall promulgate regulations to carry out this subsection.''.

(b) DISTILLATION INDEX.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting before subsection (q) (as redesignated by subsection (a)(1)) the following:

''(p) DISTILLATION INDEX.—Effective January 1, 2004, no person shall manufacture, sell, supply, offer for sale, or supply, dispense, transport, or introduce into commerce gasoline that has a distillation index that exceeds 1,200.''.

(c) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''or (n)'' each place it appears and inserting ''(n), (o), or (p)''; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), (o), or (p)''; and

(2) in the first sentence of paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), (o), and (p)''.

(d) ELIMINATION OF ETHANOL WAIVER.—Section 211(h)(4) of the Clean Air Act (42 U.S.C. 7545(h)(4)) is amended by striking ''For'' and inserting ''In the case of a State that is not located east of the Mississippi River, for''.

SEC. 819. NEIGHBORHOOD ELECTRIC VEHICLES.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) by striking ''or a dual fueled vehicle'' and inserting '', a dual fueled vehicle, or a neighborhood electric vehicle'';

(2) by striking ''and'' at the end of paragraph (13);

(3) by striking the period at the end of subparagraph (14) and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'neighborhood electric vehicle' means a motor vehicle that qualifies as both—

''(A) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations; and

''(B) a zero-emission vehicle, as such term is defined in section 86.1703–99 of title 40, Code of Federal Regulations.''.

Subtitle C—Federal Reformulated Fuels

SEC. 821. SHORT TITLE.

This subtitle may be cited as the ''Federal Reformulated Fuels Act of 2002''.

SEC. 822. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF MTBE CONTAMINATION.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraphs (1), (2), and (12)''; and

(B) by inserting ''and section 9010'' before ''if''; and

(2) by adding at the end the following:

''(12) REMEDIATION OF MTBE CONTAMINATION.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9011(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether that presents a threat to human health, welfare, or the environment.

''(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

''(i) in accordance with paragraph (2); and

''(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

''SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

''Funds made available under section 9011(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

''(1) by a State (pursuant to section 9003(h)(7)) acting under—

''(A) a program approved under section 9004; or

''(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle; and

''(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

''SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

''In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund—

''(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2002, to remain available until expended; and

''(2) to carry out section 9010—

''(A) $50,000,000 for fiscal year 2002; and

''(B) $30,000,000 for each of fiscal years 2003 through 2007.''.

(c) TECHNICAL AMENDMENTS.—

(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

''Sec. 9010. Release prevention and compliance.

''Sec. 9011. Authorization of appropriations.''.

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking ''sustances'' and inserting ''substances''.

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the second sentence by striking ''referred to'' and all that follows and inserting ''referred to in subparagraph (A) or (B), or both, of section 9001(2).''.

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking ''study taking'' and inserting ''study, taking'';

(B) in subsection (b)(1), by striking ''relevent'' and inserting ''relevant''; and

(C) in subsection (b)(4), by striking ''Evironmental'' and inserting ''Environmental''.

SEC. 823. AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.

(a) IN GENERAL.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting ''fuel or fuel additive or'' after ''Administrator any''; and

(B) by striking ''air pollution which'' and inserting ''air pollution, or water pollution, that'';

(2) in paragraph (4)(B), by inserting ''or water quality protection,'' after ''emission control,''; and

(3) by adding at the end the following:

''(5) BAN ON THE USE OF MTBE.—Not later than 4 years after the date of enactment of

this paragraph, the Administrator shall ban use of methyl tertiary butyl ether in motor vehicle fuel.''.

(b) NO EFFECT ON LAW REGARDING STATE AUTHORITY.—The amendments made by subsection (a) have no effect on the law in effect on the day before the date of enactment of this Act regarding the authority of States to limit the use of methyl tertiary butyl ether in gasoline.

SEC. 824. WAIVER OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''; and

(2) by adding at the end the following:

''(B) WAIVER OF OXYGEN CONTENT REQUIREMENT.—

''(i) AUTHORITY OF THE GOVERNOR.—

''(I) IN GENERAL.—Notwithstanding any other provision of this subsection, a Governor of a State, upon notification by the Governor to the Administrator during the 90–day period beginning on the date of enactment of this subparagraph, or during the 90–day period beginning on the date on which an area in the State becomes a covered area by operation of the second sentence of paragraph (10)(D), may waive the application of paragraphs (2)(B) and (3)(A)(v) to gasoline sold or dispensed in the State.

''(II) OPT-IN AREAS.—A Governor of a State that submits an application under paragraph (6) may, as part of that application, waive the application of paragraphs (2)(B) and (3)(A)(v) to gasoline sold or dispensed in the State.

''(ii) TREATMENT AS REFORMULATED GASOLINE.—In the case of a State for which the Governor invokes the waiver described in clause (i), gasoline that complies with all provisions of this subsection other than paragraphs (2)(B) and (3)(A)(v) shall be considered to be reformulated gasoline for the purposes of this subsection.

''(iii) EFFECTIVE DATE OF WAIVER.—A waiver under clause (i) shall take effect on the earlier of—

''(I) the date on which the performance standards under subparagraph (C) take effect; or

''(II) the date that is 270 days after the date of enactment of this subparagraph.

''(C) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—

''(i) IN GENERAL.—As soon as practicable after the date of enactment of this subparagraph, the Administrator shall—

''(I) promulgate regulations consistent with subparagraph (A) and paragraph (3)(B)(ii) to ensure that reductions of toxic air pollutant emissions achieved under the reformulated gasoline program under this section before the date of enactment of this subparagraph are maintained in States for which the Governor waives the oxygenate requirement under subparagraph (B)(i); or

''(II) determine that the requirement described in clause (iv)—

''(aa) is consistent with the bases for performance standards described in clause (ii); and

''(bb) shall be deemed to be the performance standards under clause (ii) and shall be applied in accordance with clause (iii).

''(ii) PADD PERFORMANCE STANDARDS.—The Administrator, in regulations promulgated under clause (i)(I), shall establish annual average performance standards for each Petroleum Administration for Defense District (referred to in this subparagraph as a ''PADD'') based on—

''(I) the average of the annual aggregate reductions in emissions of toxic air pollutants achieved under the reformulated gasoline program in each PADD during calendar years 1999 and 2000, determined on the basis of the 1999 and 2000 Reformulated Gasoline Survey Data, as collected by the Administrator; and

''(II) such other information as the Administrator determines to be appropriate.

''(iii) APPLICABILITY.—

''(I) IN GENERAL.—The performance standards under this subparagraph shall be applied on an annual average importer or refinery-by-refinery basis to reformulated gasoline that is sold or introduced into commerce in a State for which the Governor waives the oxygenate requirement under subparagraph (B)(i).

''(II) MORE STRINGENT REQUIREMENTS.—The performance standards under this subparagraph shall not apply to the extent that any requirement under section 202(l) is more stringent than the performance standards.

''(III) STATE STANDARDS.—The performance standards under this subparagraph shall not apply in any State that has received a waiver under section 209(b).

''(IV) CREDIT PROGRAM.—The Administrator shall provide for the granting of credits for exceeding the performance standards under this subparagraph in the same manner as provided in paragraph (7).

''(iv) STATUTORY PERFORMANCE STANDARDS.—

''(I) IN GENERAL.—Subject to subclause (IV), if the regulations under clause (i)(I) have not been promulgated by the date that is 270 days after the date of enactment of this subparagraph, the requirement described in subclause (III) shall be deemed to be the performance standards under clause (ii) and shall be applied in accordance with clause (iii).

''(II) PUBLICATION IN FEDERAL REGISTER.—Not later than 30 days after the date of enactment of this subparagraph, the Administrator shall publish in the Federal Register, for each PADD, the percentage equal to the average of the annual aggregate reductions in the PADD described in clause (ii)(I).

''(III) TOXIC AIR POLLUTANT EMISSIONS.—The annual aggregate emissions of toxic air pollutants from baseline vehicles when using reformulated gasoline in each PADD shall be not greater than—

''(aa) the aggregate emissions of toxic air pollutants from baseline vehicles when using baseline gasoline in the PADD; reduced by

''(bb) the quantity obtained by multiplying the aggregate emissions described in item (aa) for the PADD by the percentage published under subclause (II) for the PADD.

''(IV) SUBSEQUENT REGULATIONS.—Through promulgation of regulations under clause (i)(I), the Administrator may modify the performance standards established under subclause (I) to require each PADD to achieve a greater percentage reduction than the percentage published under subclause (II) for the PADD.''.

SEC. 825. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking ''may also'' and inserting ''shall, on a regular basis,''; and

(B) by striking subparagraph (A) and inserting the following:

''(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and''; and

(2) by adding at the end the following:

''(4) ETHYL TERTIARY BUTYL ETHER.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

''(i) conduct a study on the effects on public health, air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

''(I) ethyl tertiary butyl ether; and

''(II) other ethers, as determined by the Administrator; and

''(ii) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the results of the study.

''(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities.''.

SEC. 826. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

''(o) 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 the Federal Reformulated Fuels Act of 2002.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this subsection, 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 fuel characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.''.

SEC. 827. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking ''(6) OPT-IN AREAS.—(A) Upon'' and inserting the following:

''(6) OPT-IN AREAS.—

''(A) CLASSIFIED AREAS.—

''(i) IN GENERAL.—Upon'';

(2) in subparagraph (B), by striking ''(B) If'' and inserting the following:

''(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If'';

(3) in subparagraph (A)(ii) (as so redesignated)—

(A) in the first sentence, by striking ''subparagraph (A)'' and inserting ''clause (i)''; and

(B) in the second sentence, by striking ''this paragraph'' and inserting ''this subparagraph''; and

(4) by adding at the end the following:

''(B) NONCLASSIFIED AREAS.—

''(i) IN GENERAL.—In accordance with section 110, a State may submit to the Administrator, and the Administrator may approve, a State implementation plan revision that provides for application of the prohibition specified in paragraph (5) in any portion of the State that is not a covered area or an area referred to in subparagraph (A)(i).

''(ii) PERIOD OF EFFECTIVENESS.—Under clause (i), the State implementation plan shall establish a period of effectiveness for applying the prohibition specified in paragraph (5) to a portion of a State that—

''(I) commences not later than 1 year after the date of approval by the Administrator of the State implementation plan; and

''(II) ends not earlier than 4 years after the date of commencement under subclause (I).''.

SEC. 828. MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.

Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) (as amended by section 823(a)(3)) is amended by adding at the end the following:

''(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

''(A) IN GENERAL.—The Administrator may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (B) to the production of other fuel additives that—

''(i) will be consumed in nonattainment areas;

''(ii) will assist the nonattainment areas in achieving attainment with a national primary ambient air quality standard;

''(iii) will not degrade air quality or surface or ground water quality or resources; and

''(iv) have been registered and tested in accordance with the requirements of this section.

''(B) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

''(i) is located in the United States; and

''(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

''(I) beginning on the date of enactment of this paragraph; and

''(II) ending on the effective date of the ban on the use of methyl tertiary butyl ether under paragraph (5).

''(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2002 through 2004.''.

Subtitle D—Additional Fuel Efficiency Measures

SEC. 831. FUEL EFFICIENCY OF THE FEDERAL FLEET OF AUTOMOBILES.

Section 32917 of title 49, United States Code, is amended to read as follows:

''§ 32917. Standards for executive agency automobiles

''(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

''(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that—

''(1) not later than September 30, 2003, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 1 mile per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and

''(2) not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

''(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

''(d) DEFINITIONS.—In this section:

''(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

''(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

''(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.''.

SEC. 832. ASSISTANCE FOR STATE PROGRAMS TO RETIRE FUEL-INEFFICIENT MOTOR VEHICLES.

(a) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the ''National Motor Vehicle Efficiency Improvement Program.'' Under this program, the Secretary shall provide grants to States to operate programs to offer owners of passenger automobiles and light-duty trucks manufactured in model years more than 15 years prior to the fiscal year in which appropriations are made under subsection (d) financial incentives to voluntarily—

(1) scrap such automobiles and to replace them with automobiles with higher fuel efficiency; or

(2) repair such vehicles to improve their fuel economy.

(b) STATE PLAN.—Not later than 180 days after the date of enactment of an appropriations act containing funds authorized under subsection (d), to be eligible to receive funds under the program, the Governor of a State shall submit to the Secretary a plan to carry out a program under this subtitle in that State.

(c) ELIGIBILITY CRITERIA.—The Secretary shall approve a State plan and provide the funds under subsection (d), if the State plan—

(1) for voluntary vehicle scrappage programs—

(A) requires that all passenger automobiles and light-duty trucks turned in be scrapped;

(B) requires that prior to scrapping a vehicle, the state provide public notification of the intent to scrap and allow for the salvage of valuable parts from the vehicle;

(C) requires that all passenger automobiles and light-duty trucks turned in be currently registered in the State in order to be eligible;

(D) requires that all passenger automobiles and light-duty trucks turned in be operational at the time that they are turned in;

(E) restricts automobile owners (except not-for-profit organizations) from turning in more than one passenger automobile and one light-duty truck in a 12-month period;

(F) provides an appropriate payment to the person recycling the scrapped passenger automobile or light-duty truck for each turned-in passenger automobile or light-duty truck;

(G) provides a minimum payment to the automobile owner for each passenger automobile and light-duty truck turned in;

(H) provides, in addition to the payment under subparagraph (G), an additional credit that may be redeemed by the owner of the turned-in passenger automobile or light-duty truck at the time of purchase of new fuel-efficient automobile; and

(I) estimates the fuel efficiency benefits of the program, and reports the estimated results to the Secretary annually; and (2) for voluntary vehicle repair programs—

(A) requires the vehicle owner contribute at least 20 percent of the cost of the repairs;

(B) sets a ceiling beyond which the vehicle owner is responsible for the cost of repairs;

(C) allows the vehicle owner to opt out of the program if the cost of the repairs is considered to be too great; and

(D) estimates the fuel economy benefits of the program and reports the estimated results to the Secretary annually.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary to carry out this section such sums as may be necessary, to remain available until expended.

(e) ALLOCATION FORMULA.—The amounts appropriated pursuant to subsection (d) shall be allocated among the States on the basis of the population of the States as contained in the most recent reliable census data available from the Bureau of the Census, Department of Commerce, for all States at the time that the Secretary needs to compute shares under this subsection.

(f) DEFINITIONS.—In this section:

(1) AUTOMOBILE.—The term ''automobile'' has the meaning given such term in section 32901(3) of title 49, United States Code.

(2) FUEL-EFFICIENT AUTOMOBILE.—

(A) The term ''fuel-efficient automobile'' means a passenger automobile or a light-duty truck that has an average fuel economy greater than the average fuel economy standard prescribed pursuant to section 32902 of title 49, United States Code, or other law, applicable to such passenger automobile or light-duty truck.

(B) The term ''average fuel economy'' has the meaning given such term in section 32901(5) of title 49, United States Code.

(C) The term ''average fuel economy standard'' has the meaning given such term in section 32901(6) of title 49, United States Code.

(D) The term ''fuel economy'' has the meaning given such term in section 32901(10) of title 49, United States Code.

(3) LIGHT-DUTY TRUCK.—The term ''light-duty truck'' means an automobile that is not a passenger automobile. Such term shall include a pickup truck, a van, or a four-wheel-drive general utility vehicle, as those terms are defined in section 600.002–85 of title 40, Code of Federal Regulations.

(4) PASSENGER AUTOMOBILE.—The term ''passenger automobile'' has the meaning given such term by section 32901(16) of title 49, United States Code.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(6) STATE.—The term ''State'' means any of the several States and the District of Columbia.

SEC. 833. IDLING REDUCTION SYSTEMS IN HEAVY DUTY VEHICLES.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended by adding at the end the following:

''PART K—REDUCING TRUCK IDLING

''SEC. 400AAA. REDUCING TRUCK IDLING.

''(a) STUDY.—Not later than 18 months after the date of enactment of this section, the Secretary shall, in consultation with the Secretary of Transportation, commence a study to analyze the potential fuel savings resulting from long duration idling of main drive engines in heavy-duty vehicles.

''(b) REGULATIONS.—Upon completion of the study under subsection (a), the Secretary may issue regulations requiring the installation of idling reduction systems on all newly manufactured heavy duty vehicles.

''(c) DEFINITIONS.—As used in this section:

''(1) The term 'heavy-duty vehicle' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds and is powered by a diesel engine.

''(2) The term 'idling reduction system' means a device or system of devices used to reduce long duration idling of a diesel engine in a vehicle.

''(3) The term 'long duration idling' means the operation of a main drive engine of a heavy-duty vehicle for a period of more than 15 consecutive minutes when the main drive

engine is not engaged in gear, except that such term does not include idling as a result of traffic congestion or other impediments to the movement of a heavy-duty vehicle.

''(4) The term 'vehicle' has the meaning given such term in section 4 of title 1, United States Code.''.

TITLE IX—ENERGY EFFICIENCY AND ASSISTANCE TO LOW INCOME CONSUMERS

Subtitle A—Low Income Assistance and State Energy Programs

SEC. 901. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION ASSISTANCE, AND STATE ENERGY GRANTS.

ENERGY GRANTS.

(a) LIHEAP.—(1) Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2003 through 2005.''.

(2) Section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e) is amended by striking ''$600,000,000'' and inserting ''$1,000,000,000''.

(3) Section 2609A(a) of the Low-Income Energy Assistance Act of 1981 (42 U.S.C. 8628a(a)) is amended by striking ''not more than $300,000'' and inserting: ''not more than $750,000''.

(b) WEATHERIZATION ASSISTANCE.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary.'' and inserting: ''$325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005.''.

SEC. 902. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322)) is amended by adding at the end the following:

''(g) The Secretary shall, at least once every three years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of the 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 that may be carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY CONSERVATION GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

''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 2002 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.''.

(c) STATE ENERGY CONSERVATION GRANTS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary.'' and inserting: ''$100,000,000 for each of fiscal years 2003 and 2004; $125,000,000 for fiscal year 2005; and such sums as may be necessary for each fiscal year thereafter.''.

SEC. 903. ENERGY EFFICIENT SCHOOLS.

(a) ESTABLISHMENT.—There is established in the Department of Energy the High Performance Schools Program (in this section referred to as the ''Program'').

(b) GRANTS.—The Secretary of Energy may make grants to a State energy office—

(1) to assist school districts in the State to improve the energy efficiency of school buildings;

(2) to administer the Program; and

(3) to promote participation in the Program.

(c) GRANTS TO ASSIST SCHOOL DISTRICTS.—The Secretary shall condition grants under subsection (b)(1) on the State energy office using the grants to assist school districts that have demonstrated—

(1) a need for the grants to build additional school buildings to meet increasing elementary or secondary enrollments or to renovate existing school buildings; and

(2) a commitment to use the grant funds to develop high performance school buildings in accordance with a plan that the State energy office, in consultation with the State educational agency, has determined is feasible and appropriate to achieve the purposes for which the grant is made.

(d) GRANTS FOR ADMINISTRATION.—Grants under subsection (b)(2) shall be used to—

(1) evaluate compliance by school districts with requirements of this section;

(2) distribute information and materials to clearly define and promote the development of high performance school buildings for both new and existing facilities;

(3) organize and conduct programs for school board members, school personnel, architects, engineers, and others to advance the concepts of high performance school buildings;

(4) obtain technical services and assistance in planning and designing high performance school buildings; or

(5) collect and monitor data and information pertaining to the high performance school building projects.

(e) GRANTS TO PROMOTE PARTICIPATION.—Grants under subsection (b)(3) shall be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy savings performance contracts, working with school administrations, students, and communities, and coordinating public benefit programs.

(f) SUPPLEMENTING GRANT FUNDS.—The State energy office shall encourage qualifying school districts to supplement funds awarded pursuant to this section with funds from other sources in the implementation of their plans.

(g) ALLOCATIONS.—Except as provided in subsection (h), funds appropriated to carry out this section shall be allocated as follows:

(1) 70 percent shall be used to make grants under subsection (b)(1);

(2) 15 percent shall be used to make grants under subsection (b)(2); and

(3) 15 percent shall be used to make grants under subsection (b)(3).

(h) OTHER FUNDS.—The Secretary of Energy may retain an amount, not to exceed $300,000 per year, to assist State energy offices in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve high performance school buildings.

(i) AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (b) there are authorized to be appropriated—

(1) $200,000,000 for fiscal year 2003;

(2) $210,000,000 for fiscal year 2004;

(3) $220,000,000 for fiscal year 2005;

(4) $230,000,000 for fiscal year 2006; and

(5) such sums as may be necessary for fiscal year 2007 and each fiscal year thereafter through fiscal year 2012.

(j) DEFINITIONS.—For purposes of this section:

(1) HIGH PERFORMANCE SCHOOL BUILDING.—The term ''high performance school building'' means a school building that, in its design, construction, operation, and maintenance—

(A) maximizes use of renewable energy and energy-efficient technologies and systems;

(B) is cost-effective on a life-cycle basis;

(C) achieves either—

(i) the applicable Energy Star building energy performance ratings, or

(ii) energy consumption levels at least 30 percent below those of the most recent version of ASHRAE Standard 90.1;

(D) uses affordable, environmentally preferable, and durable materials;

(E) enhances indoor environmental quality;

(F) protects and conserves water; and

(G) optimizes site potential.

(2) RENEWABLE ENERGY.—The term ''renewable energy'' means energy produced by solar, wind, biomass, ocean, geothermal, or hydroelectric power.

(3) SCHOOL.—The term ''school'' means—

(A) an ''elementary school'' as that term is defined in section 14101(14) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(14)),

(B) a ''secondary school'' as that term is defined in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)), or

(C) an elementary or secondary Indian school funded by the Bureau of Indian Affairs.

(4) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the same meaning given such term in section 14101(28) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(28)).

(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), or, if no such agency exists, a State agency designated by the Governor of the State.

SEC. 904. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy is authorized to make grants to private, nonprofit 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 to a community development organization for—

(1) investments that develop alternative renewable and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy an amount not to exceed $10 million for fiscal year 2003 and each fiscal year thereafter through fiscal year 2005.

Subtitle B—Federal Energy Efficiency

SEC. 911. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended to read as follows:

''(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, 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 2002 through 2011 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2000, by the percentage specified in the following table:

''Fiscal Year	Percentage reduction
2002	2
2003	4
2004	6
2005	8
2006	10
2007	12
2008	14
2009	16
2010	18
2011	20

(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, 2010, 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 calendar years 2012 through 2021.''.

(c) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended to read as follows:

''(1)(A) An agency may exclude, from the energy performance requirement for a calendar 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, Executives 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''; and

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

(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) 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''.

(g) 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. 912. 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, 2004, all Federal buildings shall be metered or submetered in accordance with guidelines established by the Secretary under paragraph (2).

''(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 Service Administration and representatives from the metering industry, energy services industry, national laboratories, universities and federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

''(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

''(i) take into consideration—

''(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

''(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

''(III) the measurement and verification protocols of the Department of Energy;

''(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

''(iii) establish 1 or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirement specified in paragraph (1) shall take effect; and

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

''(f) USE OF ENERGY CONSUMPTION DATA IN FEDERAL BUILDINGS.—

''(1) IN GENERAL.—Beginning not later than January 1, 2003, each agency shall use, to the maximum extent practicable, for the purposes of efficient use of energy and reduction in the cost of electricity used in the Federal buildings of the agency, interval consumption data that measure on a real-time or daily basis consumption of electricity in the Federal buildings of the agency.

''(2) PLAN.—As soon as practicable after the date of enactment of this subsection, 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 requirement of paragraph (1), including how the agency will designate personnel primarily responsible for achieving the requirement.''.

SEC. 913. FEDERAL BUILDING PERFORMANCE STANDARDS.

(a) REVISED STANDARDS.—Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking ''CABO Model Energy Code, 1992'' and inserting ''the 2000 International Energy Conservation Code''; and

(2) by adding at the end the following:

''(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that, if cost-effective—

''(i) new commercial buildings and multifamily high rise residential buildings be constructed so as to achieve the applicable Energy Star building energy performance ratings or energy consumption levels at least 30 percent below those of the most recent ASHRAE Standard 90.1, whichever results in the greater increase in energy efficiency;

''(ii) new residential buildings (other than those described in clause (i)) be constructed so as to achieve the applicable Energy Star building energy performance ratings or achieve energy consumption levels at least 30 percent below the requirements of the most recent version of the International Energy Conservation Code, whichever results in the greater increase in energy efficiency; and

''(iii) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings.

''(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall 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 of the Federal agency; and

''(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph, including a monitoring and commissioning report that is in compliance with the measurement and verification protocols of the Department of Energy.

''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph and to implement the revised standards established under this paragraph.''.

(b) ENERGY LABELING PROGRAM.—Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is further amended by adding at the end the following:

''(e) ENERGY LABELING PROGRAM.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.''.

SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

"SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) 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—

''(A) an Energy Star product or FEMP designated product is not cost effective over the life cycle of the product; or

''(B) no Energy Star product or FEMP designated product is reasonably available that meets the requirements of the executive agency.

''(3) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, and into the factors for the evaluation of offers received for 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 and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by inserting after the item relating to section 551 the following:

''Sec. 552. Federal Government procurement of energy efficient products.''

(c) REGULATIONS.—Not later than 180 days after the effective date specified in subsection (f), the Secretary of Energy shall issue guidelines to carry out section 552 of the National Energy Conservation Policy Act (as added by subsection (a)).

(d) DESIGNATION OF ENERGY STAR PRODUCTS.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall expedite the process of designating products as Energy Star products (as defined in section 552 of the National Energy Conservation Policy Act (as added by subsection (a)).

(e) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard within 120 days of the enactment of this paragraph, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

(f) EFFECTIVE DATE.—Subsection (a) and the amendment made by that subsection take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 915. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.

Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

SEC. 916. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.

(a) 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 or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

''(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.''.

(b) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.''.

(c) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.''.

SEC. 917. REVIEW OF ENERGY SAVINGS PERFORMANCE CONTRACT PROGRAM.

Within 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 918. FEDERAL ENERGY BANK.

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

"SEC. 553. FEDERAL ENERGY BANK.

''(a) DEFINITIONS.—In this section:

''(1) BANK.—The term 'Bank' means the Federal Energy Bank established by subsection (b).

''(2) ENERGY OR WATER EFFICIENCY PROJECT.—The term 'energy or water efficiency project' means a project that assists a Federal agency in meeting or exceeding the energy or water efficiency requirements of—

''(A) this part;

''(B) title VIII;

''(C) subtitle F of title I of the Energy Policy Act of 1992 (42 U.S.C. 8262 et seq.); or

''(D) any applicable Executive order, including Executive Order No. 13123.

''(3) FEDERAL AGENCY.—The term 'Federal agency' means—

''(A) an Executive agency (as defined in section 105 of title 5, United States Code);

''(B) the United States Postal Service;

''(C) Congress and any other entity in the legislative branch; and

''(D) a Federal court and any other entity in the judicial branch.

''(b) ESTABLISHMENT OF BANK.—

''(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the 'Federal Energy Bank', consisting of—

''(A) such amounts as are deposited in the Bank under paragraph (2);

''(B) such amounts as are repaid to the Bank under subsection (c)(2)(D); and

''(C) any interest earned on investment of amounts in the Bank under paragraph (3).

''(2) DEPOSITS IN BANK.—

''(A) IN GENERAL.—Subject to the availability of appropriations and to subparagraph (B), the Secretary of the Treasury shall deposit in the Bank an amount equal to $250,000,000 in fiscal year 2003 and in each fiscal year thereafter.

''(B) MAXIMUM AMOUNT IN BANK.—Deposits under subparagraph (A) shall cease beginning with the fiscal year following the fiscal year in which the amounts in the Bank (including amounts on loan from the Bank) become equal to or exceed $1,000,000,000.

''(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest such portion of the Bank as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

''(c) LOANS FROM THE BANK.—

''(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under paragraph (2).

''(2) LOAN PROGRAM.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—In accordance with subsection (d), the Secretary, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Management and Budget, shall establish a program to make loans of amounts in the Bank to any Federal agency that submits an application satisfactory to the Secretary in order to pay the costs of a project described in subparagraph (C).

''(ii) COMMENCEMENT OF OPERATIONS.—The Secretary may begin—

''(I) accepting applications for loans from the Bank in fiscal year 2002; and

''(II) making loans from the Bank in fiscal year 2003.

''(B) ENERGY SAVINGS PERFORMANCE CONTRACTING FUNDING.—To the extent practicable, an agency shall not submit a project for which energy performance contracting funding is available and is acceptable to the Federal agency under title VIII.

''(C) PURPOSES OF LOAN.—

''(i) IN GENERAL.—A loan from the Bank may be used to pay—

''(I) the costs of an energy or water efficiency project, or a renewable or alternative energy project, for a new or existing Federal building (including selection and design of the project);

''(II) the costs of an energy metering plan and metering equipment installed pursuant to section 543(e) or for the purpose of verification of the energy savings under an energy savings performance contract under title VIII; or

''(III) at the time of contracting, the costs of cofunding of an energy savings performance contract (including a utility energy service agreement) in order to shorten the payback period of the project that is the subject of the energy savings performance contract.

''(ii) LIMITATION.—A Federal agency may use not more than 10 percent of the amount of a loan under subclause (I) or (II) of clause (i) to pay the costs of administration and proposal development (including data collection and energy surveys).

''(iii) RENEWABLE AND ALTERNATIVE ENERGY PROJECTS.—Not more than 25 percent of the amount on loan from the Bank at any time may be loaned for renewable energy and alternative energy projects (as defined by the Secretary in accordance with applicable law (including Executive Orders)).

''(D) REPAYMENTS.—

''(i) IN GENERAL.—Subject to clauses (ii) through (iv), a Federal agency shall repay to the Bank the principal amount of a loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

''(ii) WAIVER OR REDUCTION OF INTEREST.—The Secretary may waive or reduce the rate of interest required to be paid under clause (i) if the Secretary determines that payment of interest by a Federal agency at the rate determined under that clause is not required to fund the operations of the Bank.

''(iii) DETERMINATION OF INTEREST RATE.—The interest rate determined under clause (i) shall be at a rate that is sufficient to ensure that, beginning not later than October 1, 2007, interest payments will be sufficient to fully fund the operations of the Bank.

''(iv) INSUFFICIENCY OF APPROPRIATIONS.—

''(I) REQUEST FOR APPROPRIATIONS.—As part of the budget request of the Federal agency for each fiscal year, the head of each Federal agency shall submit to the President a request for such amounts as are necessary to make such repayments as are expected to become due in the fiscal year under this subparagraph.

''(II) SUSPENSION OF REPAYMENT REQUIREMENT.—If, for any fiscal year, sufficient appropriations are not made available to a Federal agency to make repayments under this subparagraph, the Bank shall suspend the requirement of repayment under this subparagraph until such appropriations are made available.

''(E) FEDERAL AGENCY ENERGY BUDGETS.—Until a loan is repaid, a Federal agency budget submitted by the President to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of any energy conservation measure implemented using amounts from the Bank.

''(F) NO RESCISSION OR REPROGRAMMING.—A Federal agency shall not rescind or reprogram loan amounts made available from the Bank except as permitted under guidelines issued under subparagraph (G).

''(G) GUIDELINES.—The Secretary shall issue guidelines for implementation of the loan program under this paragraph, including selection criteria, maximum loan amounts, and loan repayment terms.

''(d) SELECTION CRITERIA.—

''(1) IN GENERAL.—The Secretary shall establish criteria for the selection of projects to be awarded loans in accordance with paragraph (2).

''(2) SELECTION CRITERIA.—

''(A) IN GENERAL.—The Secretary may make loans from the Bank only for a project that—

''(i) is technically feasible;

''(ii) is determined to be cost-effective using life cycle cost methods established by the Secretary;

''(iii) includes a measurement and management component, based on the measurement and verification protocols of the Department of Energy, to—

''(I) commission energy savings for new and existing Federal facilities;

''(II) monitor and improve energy efficiency management at existing Federal facilities; and

''(III) verify the energy savings under an energy savings performance contract under title VIII; and

''(iv)(I) in the case of renewable energy or alternative energy project, has a simple payback period of not more than 15 years; and

''(II) in the case of any other project, has a simple payback period of not more than 10 years.

''(B) PRIORITY.—In selecting projects, the Secretary shall give priority to projects that—

''(i) are a component of a comprehensive energy management project for a Federal facility; and

''(ii) are designed to significantly reduce the energy use of the Federal facility.

''(e) REPORTS AND AUDITS.—

''(1) REPORTS TO THE SECRETARY.—Not later than 1 year after the completion of installation of a project that has a cost of more than $1,000,000, and annually thereafter, a Federal agency shall submit to the Secretary a report that—

''(A) states whether the project meets or fails to meet the energy savings projections for the project; and

''(B) for each project that fails to meet the energy savings projections, states the reasons for the failure and describes proposed remedies.

''(2) AUDITS.—The Secretary may audit, or require a Federal agency that receives a loan from the Bank to audit, any project financed with amounts from the Bank to assess the performance of the project.

''(3) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of—

''(A) the total receipts by the Bank;

''(B) the total amount of loans from the Bank to each Federal agency; and

''(C) the estimated cost and energy savings resulting from projects funded with loans from the Bank.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to such sums as are necessary to carry out this section.''

SEC. 919. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end:

''SEC. 554. 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 the Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1).

''(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 five 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) CONTRACTING AUTHORITY.—The Architect—

''(1) may contract with nongovernmental entities and use private sector capital to finance energy conservation projects and meet energy performance requirements; and

''(2) may use innovative contracting methods that will attract private sector funding for the installation of energy efficient and renewable energy technology, such as energy savings performance contracts described in title VIII.

''(d) CAPITOL VISITOR CENTER.—The Architect—

''(1) shall ensure that state-of-the-art energy efficiency and renewable energy technologies are used in the construction and design of the Visitor Center; and

''(2) shall include in the Visitor Center an exhibit on the energy efficiency and renewable energy measures used in congressional buildings.

''(e) ANNUAL REPORT.—The Architect shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

''(1) energy expenditures and savings estimates for each facility;

''(2) energy management and conservation projects; and

''(3) future priorities to ensure compliance with this section.''.

(b) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

Subtitle C—Industrial Efficiency and Consumer Products

SEC. 921. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) VOLUNTARY AGREEMENTS.—The Secretary of Energy shall enter into voluntary agreements with one or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities.

(b) GOAL.—Voluntary agreements under this section shall have a goal of reducing energy intensity by not less than 2.5 percent each year from 2002 through 2012.

(c) RECOGNITION.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and other appropriate federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(d) DEFINITION.—In this section, the term ''energy intensity'' means the primary energy consumed per unit of physical output in an industrial process.

(e) TECHNICAL ASSISTANCE.—An entity that enters into an agreement under this section and continues to make a good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance as appropriate to assist in the achievement of those goals.

(f) REPORT.—Not later than June 30, 2008 and June 30, 2012, the Secretary shall submit to Congress a report that evaluates the success of the voluntary agreements, with independent verification of a sample of the energy savings estimates provided by participating firms.

SEC. 922. AUTHORITY TO SET STANDARDS FOR COMMERCIAL PRODUCTS.

Part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended as follows:

(1) In the heading for such part, by inserting ''AND COMMERCIAL'' after ''CONSUMER''.

(2) In section 321(2), by inserting ''or commercial'' after ''consumer''.

(3) In paragraphs (4), (5), and (15) of section 321, by striking ''consumer'' each place it appears and inserting ''covered''.

(4) In section 322(a), by inserting ''or commercial'' after ''consumer'' the first place it appears in the material preceding paragraph (1).

(5) In section 322(b), by inserting ''or commercial'' after ''consumer'' each place it appears.

(6) In section 322 (b)(1)(B) and (b)(2)(A), by inserting ''or per-business in the case of a commercial product'' after ''per-household'' each place it appears.

(7) In section 322 (b)(2)(A), by inserting ''or businesses in the case of commercial products'' after ''households'' each place it appears.

(8) In section 322 (B)(2)(C)—

(A) by striking ''term'' and inserting ''terms''; and

(B) by inserting ''and 'businesses''' after ''household''.

(9) In section 323 (b)(1) (B) by inserting ''or commercial'' after ''consumer''.

SEC. 923. ADDITIONAL DEFINITIONS.

Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding at the end the following:

''(32) The term 'battery charger' means a device that charges batteries for consumer products.

''(33) The term 'commercial refrigerator, freezer and refrigerator-freezer' means a refrigerator, freezer or refrigerator-freezer that—

''(A) is not a consumer product regulated under this Act; and

''(B) incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

''(34) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.

''(35) The term 'illuminated exit sign' means a sign that—

''(A) is designed to be permanently fixed in place to identify an exit; and

''(B) consists of—

''(i) an electrically powered integral light source that illuminates the legend 'EXIT' and any directional indicators; and

''(ii) provides contrast between the legend, any directional indicators, and the background.

''(36)(A) Except as provided in subsection (B), the term 'low-voltage dry-type transformer' means a transformer that—

''(i) has an input voltage of 600 volts or less;

''(ii) is air-cooled;

''(iii) does not use oil as a coolant; and

''(iv) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'low-voltage dry-type transformer' does not include—

''(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;

''(ii) transformers that are designed to be used in a special purpose application, such as transformers commonly known as drive transformers, rectifier transformers, autotransformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application and the application of standards to the transformer would not result in significant energy savings.

''(37) The term ''standby mode'' means the lowest amount of electric power used by a household appliance when not performing its active functions, as defined on an individual product basis by the Secretary.

''(38) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

''(39) The term 'transformer' means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

''(40) 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.

SEC. 924. ADDITIONAL TEST PROCEDURES.

(a) EXIT SIGNS.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding at the end the following:

''(9) Test procedures for illuminated exit signs shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for illuminated exit signs, as in effect on the date of enactment of this paragraph.

''(10) Test procedures for low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). The Secretary may review and revise this test procedure based on future revisions to such standard test method.

(b) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is further amended by adding at the end the following:

''(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall within 24 months after the date of enactment of this subsection prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, commercial unit heaters, 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.''.

SEC. 925. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Paragraph (2) of section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

''(F) Not later than three months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed within 15 months of 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 shall within 6 months after the date on which energy conservation standards are prescribed by the Secretary for covered products referred to in subsections (u) and (v) of section 325, and within 18 months of enactment of this paragraph for products referred to in subsections (w) through (y) of section 325, prescribe, by rule, labeling requirements for such products. Labeling requirements adopted under this paragraph shall take effect on the same date as the standards set pursuant to sections 325(v) through (y).

SEC. 926. ENERGY STAR PROGRAM.

The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting after section 324 the following:

''ENERGY STAR PROGRAM

''SEC. 324A. (a) IN GENERAL.—There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through labeling of products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. 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;

''(3) preserve the integrity of the Energy Star label; and

''(4) solicit the comments of interested parties in establishing a new Energy Star product category or in revising a product category, and upon adoption of a new or revised product category provide an explanation of the decision that responds to significant public comments.''.

SEC. 927. ENERGY CONSERVATION STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS.

Section 325(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended to read as follows:

''(1) Except as provided in paragraph (3), the seasonal energy efficiency ratio of central air conditioners and central air conditioning heat pumps manufactured on or after January 23, 2006 shall be no less than 13.0.

''(2) Except as provided in paragraph (4), the heating seasonal performance factor of central air conditioning heat pumps manufactured on or after January 23, 2006 shall be no less than 7.7.

''(3) The seasonal energy efficiency ratio of central air conditioners or central air conditioning heat pumps manufactured on or after January 23, 2006 shall be no less than 12.0 for products that—

''(A) have a rated cooling capacity equal to or less than 30,000 Btu per hour;

''(B) have an outdoor or indoor unit having at least two overall exterior dimensions or an overall displacement that—

''(i) is substantially smaller than those of other units that are currently installed in site-built single family homes, and of a similar cooling or heating capacity, and

''(ii) if increased would result in a significant increase in the cost of installation or would result in a significant loss in the utility of the product to the consumer; and

''(C) were available for purchase in the United States as of December 1, 2000.

''(4) The heating seasonal performance factor of central air conditioning heat pumps manufactured on or after January 25, 2006 shall not be less 7.4 for products that meet the criteria in paragraph (3).

''(5) The Secretary may postpone the requirements of paragraphs (3) and (4) for specific product types until a date no later than January 23, 2010, if he determines that compliance is either—

''(A) not technologically feasible, or

''(B) not economically justifiable.

''(6) The Secretary shall publish a final rule not later than January 1, 2006 to determine whether the standards in effect for central air conditioners and central air conditioning heat pumps should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2011.''.

SEC. 928. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

''(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION.—

''(1) INITIAL RULEMAKING.—

''(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions of standby mode and test procedures for the standby mode power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing test procedures used for measuring energy consumption in standby mode and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for standby mode energy use for these products.

''(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be promulgated for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of standby energy use that—

(i) meets the criteria of subsections (o), (p), (q), (r), (s) and (t); and

(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

''(2) DESIGNATION OF ADDITIONAL COVERED PRODUCTS.—

''(A) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish for public comment and public hearing a notice to determine whether any noncovered products should be designated as covered products for the purpose of instituting a rulemaking under this section to determine whether an energy conservation standard restricting standby mode energy consumption, should be promulgated; providing that any restriction on standby mode energy consumption shall be limited to major sources of such consumption.

''(B) In making the determinations pursuant to subparagraph (A) of whether to designate new covered products and institute rulemakings, the Secretary shall, among other relevant factors and in addition to the criteria in section 322(b), consider—

''(i) standby mode power consumption compared to overall product energy consumption; and

''(ii) the priority and energy savings potential of standards which may be promulgated under this subsection compared to other required rulemakings under this section and the available resources of the Department to conduct such rulemakings.

''(C) Not later than one year after the date of enactment of this subsection, the Secretary shall issue a determination of any new covered products for which he intends to institute rulemakings on standby mode pursuant to this section and he shall state the dates by which he intends to initiate those rulemakings.

''(3) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to section 325 should be revised, the Secretary shall consider for covered products which are major sources of standby mode energy consumption whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, the criteria for non-covered products in subparagraph (B) of this subsection.

''(4) RULEMAKING FOR STANDBY MODE.—

''(A) Any rulemaking instituted under this subsection or for covered products under this section which restricts standby mode power consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in section 325 and the criteria set forth in paragraph 2(B) of this subsection.

''(B) No standard can be proposed for new covered products or covered products in a standby mode unless the Secretary has promulgated applicable test procedures for each product pursuant to section 323.

''(C) The provisions of section 327 shall apply to new covered products which are subject to the rulemakings for standby mode after a final rule has been issued.

(5) EFFECTIVE DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported three years after the date of promulgation.

(6) VOLUNTARY PROGRAMS TO REDUCE STANDBY MODE ENERGY USE.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

''(v) SUSPENDED CEILING FANS, VENDING MACHINES, UNIT HEATERS, AND COMMERCIAL REFRIGERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—The Secretary shall within 24 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, unit heaters, and commercial refrigerators, freezers and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

''(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after January 1, 2005 shall meet the Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency as in effect on the date of enactment of this subsection.

''(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 TRANSFORMERS.—

''The efficiency of low voltage dry-type transformers manufactured on or after January 1, 2005 shall be the Class I Efficiency Levels for low voltage dry-type 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–1–1996).''.

SEC. 929. CONSUMER EDUCATION ON ENERGY EFFICIENCY BENEFITS OF AIR CONDITIONING, HEATING, AND VENTILATION MAINTENANCE.

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.—(1) For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems.

''(2) The Secretary may carry out the program in cooperation with industry trade associations, industry members, and energy efficiency organizations.''.

Subtitle D—Housing Efficiency

SEC. 931. CAPACITY BUILDING FOR ENERGY EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 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. 932. 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 period 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. 933. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting ''or paragraph (10)''; and (2) by striking ''20 percent'' and inserting ''30 percent''.

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking ''20 percent'' and inserting ''30 percent''.

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 17151(k)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 213(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

SEC. 934. PUBLIC HOUSING CAPITAL FUND.

Section 9(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1)) is amended—

(1) in subparagraph (I), by striking ''and'' at the end;

(2) in subparagraph (K), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(L) 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.''.

SEC. 935. 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 a 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. 936. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 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.''.

DIVISION D—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

TITLE X—CLIMATE CHANGE POLICY FORMULATION

Subtitle A—Global Warming

SEC. 1001. SENSE OF CONGRESS ON GLOBAL WARMING.

(a) FINDINGS.—The Congress makes the following findings:

(1) Evidence continues to build that increases in atmospheric concentrations of man-made greenhouse gases are contributing to global climate change.

(2) The Intergovernmental Panel on Climate Change (IPCC) has concluded that ''there is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities'' and that the Earth's average temperature can be expected to rise between 2.5 and 10.4 degrees Fahrenheit in this century.

(3) The National Academy of Sciences confirmed the findings of the IPCC, stating that ''the IPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue'' and that ''there is general agreement that the observed warming is real and particularly strong within the past twenty years''.

(4) The IPCC has stated that in the last 40 years, the global average sea level has risen, ocean heat content has increased, and snow cover and ice extent have decreased, which threatens to inundate low-lying island nations and coastal regions throughout the world.

(5) The Environmental Protection Agency has found that global warming may harm the United States by altering crop yields, accelerating sea level rise, and increasing the spread of tropical infectious diseases.

(6) In 1992, the United States ratified the United Nations Framework Convention of Climate Change, done at New York on May 9, 1992, the ultimate objective of which is the ''stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system'', and which stated in part ''the Parties to the Convention are to implement policies with the aim of returning . . . to their 1990 levels anthropogenic emissions of carbon dioxide and other greenhouse gases.''

(7) There is a shared international responsibility to address this problem, as industrial nations are the largest historic and current emitters of greenhouse gases and developing nations' emissions will significantly increase in the future.

(8) The United Nations Framework Convention on Climate Change further states that ''developed country Parties should take the lead in combating climate change and the adverse effects thereof'', as these nations are the largest historic and current emitters of greenhouse gases.

(9) Senate Resolution 98 of July 1997, which expressed that developing nations, especially the largest emitters, must also be included in any future, binding climate change treaty and such a treaty must not result in serious harm to the United States economy, should not cause the United States to abandon its shared responsibility to help find a solution to the global climate change dilemma.

(10) American businesses need to know how governments worldwide will respond to the threat of global warming.

(11) The United States has benefitted and will continue to benefit from investments in the research, development and deployment of a range of clean energy and efficiency technologies that can mitigate global warming and that can make the United States economy more productive, bolster energy security, create jobs, and protect the environment.

(b) SENSE OF CONGRESS.—It is the sense of the United States Congress that the United States should demonstrate international leadership and responsibility in mitigating the health, environmental, and economic threats posed by global warming by:

(1) taking responsible action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors;

(2) creating flexible international and domestic mechanisms, including joint implementation, technology deployment, emissions trading and carbon sequestration projects that will reduce, avoid, and sequester greenhouse gas emissions; and

(3) participating in international negotiations, including putting forth a proposal at the next meeting of the Conference of the Parties, with the objective of securing United States' participation in a revised Kyoto Protocol or other future binding climate change agreements in a manner that is consistent with the environmental objectives of the Framework Convention on Climate Change, that protects the economic interests of the United States, and recognizes the shared international responsibility for addressing climate change, including developing country participation.

Subtitle B—Climate Change Strategy

SEC. 1011. SHORT TITLE.

This title may be cited as the ''Climate Change Strategy and Technology Innovation Act of 2002''.

SEC. 1012. FINDINGS.

Congress finds that—

(1) evidence continues to build that increases in atmospheric concentrations of greenhouse gases are contributing to global climate change;

(2) in 1992, the Senate ratified the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, the ultimate objective of which is the ''stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system'';

(3) although science currently cannot determine precisely what atmospheric concentrations are ''dangerous'', the current trajectory of greenhouse gas emissions will lead to a continued rise in greenhouse gas concentrations in the atmosphere, not stabilization;

(4) the remaining scientific uncertainties call for temperance of human actions, but not inaction;

(5) greenhouse gases are associated with a wide range of human activities, including energy production, transportation, agriculture, forestry, manufacturing, buildings, and other activities;

(6) the economic consequences of poorly designed climate change response strategies, or of inaction, may cost the global economy trillions of dollars;

(7) a large share of this economic burden would be borne by the United States;

(8) stabilization of greenhouse gas concentrations in the atmosphere will require transformational change in the global energy system and other emitting sectors at an almost unimaginable level—a veritable industrial revolution is required;

(9) such a revolution can occur only if the revolution is preceded by research and development that leads to bold technological breakthroughs;

(10) over the decade preceding the date of enactment of this Act—

(A) energy research and development budgets in the public and private sectors have declined precipitously and have not been focused on the climate change response challenge; and

(B) the investments that have been made have not been guided by a comprehensive strategy;

(11) the negative trends in research and development funding described in paragraph (10) must be reversed with a focus on not only traditional energy research and development, but also bolder, breakthrough research;

(12) much more progress could be made on the issue of climate change if the United States were to adopt a new approach for addressing climate change that included, as an ultimate long-term goal—

(A) stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system; and

(B) a response strategy with 4 key elements consisting of—

(i) definition of interim emission mitigation levels, that, coupled with specific mitigation approaches and after taking into account actions by other nations (if any), would result in stabilization of greenhouse gas concentrations;

(ii) technology development, including—

(I) a national commitment to double energy research and development by the United States public and private sectors; and

(II) in carrying out such research and development, a national commitment to provide a high degree of emphasis on bold, breakthrough technologies that will make possible a profound transformation of the energy, transportation, industrial, agricultural, and building sectors of the United States;

(iii) climate adaptation research that—

(I) focuses on response actions necessary to adapt to climate change that may have already occurred;

(II) focuses on response actions necessary to adapt to climate change that may occur under any future climate change scenario;

(iv) climate science research that—

(I) builds on the substantial scientific understanding of climate change that exists as of the date of enactment of this Act;

(II) focuses on resolving the remaining scientific, technical, and economic uncertainties to aid in the development of sound response strategies; and

(13) inherent in each of the 4 key elements of the response strategy is consideration of the international nature of the challenge, which will require—

(A) establishment of joint climate response strategies and joint research programs;

(B) assistance to developing countries and countries in transition for building technical and institutional capacities and incentives for addressing the challenge; and

(C) promotion of public awareness of the issue.

SEC. 1013. PURPOSE.

The purpose of this title is to implement the new approach described in section 1012(12) by developing a national focal point for climate change response through—

(1) the establishment of the National Office of Climate Change Response within the Executive Office of the President to develop the United States Climate Change Response Strategy that—

(A) incorporates the 4 key elements of that new approach;

(B) is supportive of and integrated in the overall energy, transportation, industrial, agricultural, forestry, and environmental policies of the United States;

(C) takes into account—

(i) the diversity of energy sources and technologies;

(ii) supply-side and demand-side solutions; and

(iii) national infrastructure, energy distribution, and transportation systems;

(D) provides for the inclusion and equitable participation of Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties;

(E) incorporates new models of Federal-State cooperation;

(F) defines a comprehensive energy technology research and development program that—

(i) recognizes the important contributions that research and development programs in existence on the date of enactment of this title make toward addressing the climate change response challenge; and

(ii) includes an additional research and development agenda that focuses on the bold, breakthrough technologies that are critical to the long-term stabilization of greenhouse gas concentrations in the atmosphere;

(G) includes consideration of other efforts to address critical environmental and health concerns, including clean air, clean water, and responsible land use policies; and

(H) incorporates initiatives to promote the deployment of clean energy technologies developed in the United States and abroad;

(2) the establishment of the Interagency Task Force, chaired by the Director of the White House Office, to serve as the primary mechanism through which the heads of Federal agencies work together to develop and implement the Strategy;

(3) the establishment of the Office of Climate Change Technology within the Department of Energy—

(A) to manage, as its primary responsibility, an innovative research and development program that focuses on the bold, breakthrough technologies that are critical to the long-term stabilization of greenhouse gas concentrations in the atmosphere; and

(B) to provide analytical support and data to the White House Office, other agencies, and the public;

(4) the establishment of an independent review board—

(A) to review the Strategy and annually assess United States and international progress toward the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system; and

(B) to assess—

(i) the performance of each Federal agency that has responsibilities under the Strategy; and

(ii) the adequacy of the budget of each such Federal agency to fulfill the responsibilities of the Federal agency under the Strategy; and

(5) the establishment of offices in, or the carrying out of activities by, the Department of Agriculture, the Department of Transportation, the Department of Commerce, the Environmental Protection Agency, and other Federal agencies as necessary to carry out this title.

SEC. 1014. DEFINITIONS.

In this title:

(1) CLIMATE-FRIENDLY TECHNOLOGY.—The term ''climate-friendly technology'' means any energy supply or end-use technology that, over the life of the technology and compared to similar technology in commercial use as of the date of enactment of this Act—

(A) results in reduced emissions of greenhouse gases;

(B) may substantially lower emissions of other pollutants; and

(C) may generate substantially smaller or less hazardous quantities of solid or liquid waste.

(2) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(3) DEPARTMENT OFFICE.—The term ''Department Office'' means the Office of Climate Change Technology of the Department established by section 1017(a).

(4) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''agency'' in section 551 of title 5, United States Code.

(5) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate.

(6) INTERAGENCY TASK FORCE.—The term ''Interagency Task Force'' means the United States Climate Change Response Interagency Task Force established under section 1016(d).

(7) KEY ELEMENT.—The term ''key element'', with respect to the Strategy, means—

(A) definition of interim emission mitigation levels, that, coupled with specific mitigation approaches and after taking into account actions by other nations (if any), would result in stabilization of greenhouse gas concentrations;

(B) technology development, including—

(i) a national commitment to double energy research and development by the United States public and private sectors; and

(ii) in carrying out such research and development, a national commitment to provide a high degree of emphasis on bold,

breakthrough technologies that will make possible a profound transformation of the energy, transportation, industrial, agricultural, and building sectors of the United States;

(C) climate adaptation research that—

(i) focuses on response actions necessary to adapt to climate change that may have already occurred;

(ii) focuses on response actions necessary to adapt to climate change that may occur under any future climate change scenario;

(D) climate science research that—

(i) builds on the substantial scientific understanding of climate change that exists as of the date of enactment of this Act;

(ii) focuses on resolving the remaining scientific, technical, and economic uncertainties to aid in the development of sound response strategies.

(8) QUALIFIED INDIVIDUAL.—

(A) IN GENERAL.—The term ''qualified individual'' means an individual who has demonstrated expertise and leadership skills to draw on other experts in diverse fields of knowledge that are relevant to addressing the climate change response challenge.

(B) FIELDS OF KNOWLEDGE.—The fields of knowledge referred to in subparagraph (A) are—

(i) the science of primary and secondary climate change impacts;

(ii) energy and environmental economics;

(iii) technology transfer and diffusion;

(iv) the social dimensions of climate change;

(v) climate change adaptation strategies;

(vi) fossil, nuclear, and renewable energy technology;

(vii) energy efficiency and energy conservation;

(viii) energy systems integration;

(ix) engineered and terrestrial carbon sequestration;

(x) transportation, industrial, and building sector concerns;

(xi) regulatory and market-based mechanisms for addressing climate change;

(xii) risk and decision analysis;

(xiii) strategic planning; and

(xiv) the international implications of climate change response strategies.

(9) REVIEW BOARD.—The term ''Review Board'' means the United States Climate Change Response Strategy Review Board established by section 1019.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(11) STABILIZATION OF GREENHOUSE GAS CONCENTRATIONS.—The term ''stabilization of greenhouse gas concentrations'' means the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, recognizing that such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner, as contemplated by the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(12) STRATEGY.—The term ''Strategy'' means the United States Climate Change Response Strategy developed under section 1015.

(13) WHITE HOUSE OFFICE.—The term ''White House Office'' means the National Office of Climate Change Response of the Executive Office of the President established by section 1016(a).

SEC. 1015. UNITED STATES CLIMATE CHANGE RESPONSE STRATEGY.

(a) IN GENERAL.—The Director of the White House Office shall develop the United States Climate Change Response Strategy, which shall—

(1) have the long-term goal of stabilization of greenhouse gas concentrations through actions taken by the United States and other nations;

(2) recognize that accomplishing the long-term goal of stabilization will take from many decades to more than a century, but acknowledging that significant actions must begin in the near term;

(3) build on the 4 key elements;

(4) be developed on the basis of an examination of a broad range of emissions levels and dates for achievement of those levels (including those evaluated by the Intergovernmental Panel on Climate Change and those consistent with U.S. treaty commitments) that, after taking into account by actions other nations (if any), would culminate in the stabilization of greenhouse gas concentrations;

(5) consider the broad range of activities and actions that can be taken by United States entities to reduce, avoid, or sequester greenhouse gas emissions both within the United States and in other nations through the use of market mechanisms, which may include but not limited to mitigation activities, terrestrial sequestration, earning offsets through carbon capture or project-based activities, trading of emissions credits in domestic and international markets, and the application of the resulting credits from any of the above within the United States;

(6) minimize any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the strategy is developed in an economically and environmentally sound manner;

(7) incorporate mitigation approaches leading to the development and deployment of advanced technologies and practices that will reduce, avoid, or sequester greenhouse gas emissions;

(8) recognize that the climate change response strategy is intended to guide the nation's effort to address climate change, but it shall not create a legal obligation on the part of any person or entity other than the duties of the Director of the White House Office and Interagency Task Force in the development of the strategy;

(9) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(10) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, and other relevant policies of the United States;

(11) have a scope that considers the totality of United States public, private, and public-private sector actions that bear on the long-term goal;

(12) be based on an evaluation of a wide range of approaches for achieving the long-term goal, including evaluation of—

(A) a variety of cost-effective Federal and State policies, programs, standards, and incentives;

(B) policies that integrate and promote innovative, market-based solutions in the United States and in foreign countries; and

(C) participation in other international institutions, or in the support of international activities, that are established or conducted to facilitate stabilization of greenhouse gas concentrations;

(13) in the final recommendations of the Strategy, emphasize response strategies that achieve the long-term goal and provide specific recommendations concerning—

(A) measures determined to be appropriate for short-term implementation, giving preference to cost-effective and technologically feasible measures that will—

(i) produce measurable net reductions in United States emissions that lead toward achievement of the long-term goal; and

(ii) minimize any adverse short-term and long-term economic, environmental, national security, and social impacts on the United States;

(B) the development of technologies that have the potential for long-term implementation—

(i) giving preference to technologies that have the potential to reduce significantly the overall cost of stabilization of greenhouse gas concentrations; and

(ii) considering a full range of energy sources, energy conversion and use technologies, and efficiency options;

(C) such changes in institutional and technology systems as are necessary to adapt to climate change in the short-term and the long-term;

(D) such review, modification, and enhancement of the scientific, technical, and economic research efforts of the United States, and improvements to the data resulting from research, as are appropriate to improve the accuracy of predictions concerning climate change and the economic and social costs and opportunities relating to climate change; and

(E) changes that should be made to project and grant evaluation criteria under other Federal research and development programs so that those criteria do not inhibit development of climate-friendly technologies;

(14) be developed in a manner that provides for meaningful participation by, and consultation among, Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in accordance with subsections (b)(4)(C)(iv)(II) and (d)(3)(B)(iii) of section 1016;

(15) address how the United States should engage State, tribal, and local governments in developing and carrying out a response to climate change;

(16) promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues;

(17) provide a detailed explanation of how the measures recommended by the Strategy will ensure that they do not result in serious harm to the economy of the United States;

(18) provide a detailed explanation of how the measures recommended by the Strategy will achieve the long-term goal of stabilization of greenhouse gas concentrations;

(19) include any recommendations for legislative and administrative actions necessary to implement the Strategy;

(20) serve as a framework for climate change response actions by all Federal agencies;

(21) recommend which Federal agencies are, or should be, responsible for the various aspects of implementation of the Strategy and any budgetary implications;

(22) address how the United States should engage foreign governments in developing an international response to climate change; and

(23) be subject to review by an independent review board in accordance with section 1019.

(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this title, the President shall submit to Congress the Strategy.

(c) UPDATING.—Not later than 2 years after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 2–year period thereafter, the President shall submit to Congress an updated version of the Strategy.

(d) PROGRESS REPORTS.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 1–year period thereafter, the President shall submit to Congress a report that—

(1) describes the progress on implementation of the Strategy; and

(2) provides recommendations for improvement of the Strategy and the implementation of the Strategy.

(e) ALIGNMENT WITH ENERGY, TRANSPORTATION, INDUSTRIAL, AGRICULTURAL, FORESTRY, AND OTHER POLICIES.—The President, the Director of the White House Office, the Secretary, and the other members of the Interagency Task Force shall work together to align the actions carried out under the Strategy and actions associated with the energy, transportation, industrial, agricultural, forestry, and other relevant policies of the United States so that the objectives of both the Strategy and the policies are met without compromising the climate change-related goals of the Strategy or the goals of the policies.

SEC. 1016. NATIONAL OFFICE OF CLIMATE CHANGE RESPONSE OF THE EXECUTIVE OFFICE OF THE PRESIDENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established, within the Executive Office of the President, the National Office of Climate Change Response.

(2) FOCUS.—The White House Office shall have the focus of achieving the long-term goal of stabilization of greenhouse gas concentrations while minimizing adverse short-term and long-term economic and social impacts.

(3) DUTIES.—Consistent with paragraph (2), the White House Office shall—

(A) establish policies, objectives, and priorities for the Strategy;

(B) in accordance with subsection (d), establish the Interagency Task Force to serve as the primary mechanism through which the heads of Federal agencies shall assist the Director of the White House Office in developing and implementing the Strategy;

(C) to the maximum extent practicable, ensure that the Strategy is based on objective, quantitative analysis, drawing on the analytical capabilities of Federal and State agencies, especially the Department Office;

(D) advise the President concerning necessary changes in organization, management, budgeting, and personnel allocation of Federal agencies involved in climate change response activities; and

(E) advise the President and notify a Federal agency if the policies and discretionary programs of the agency are not well aligned with, or are not contributing effectively to, the long-term goal of stabilization of greenhouse gas concentrations.

(b) DIRECTOR OF THE WHITE HOUSE OFFICE.—

(1) IN GENERAL.—The White House Office shall be headed by a Director, who shall report directly to the President.

(2) APPOINTMENT.—The Director of the White House Office shall be a qualified individual appointed by the President, by and with the advice and consent of the Senate.

(3) DUTIES OF THE DIRECTOR OF THE WHITE HOUSE OFFICE.—

(A) STRATEGY.—In accordance with section 1015, the Director of the White House Office shall coordinate the development and updating of the Strategy.

(B) INTERAGENCY TASK FORCE.—The Director of the White House Office shall serve as Chairperson of the Interagency Task Force.

(C) ADVISORY DUTIES.—

(i) CLIMATE, ENERGY, TRANSPORTATION, INDUSTRIAL, AGRICULTURAL, BUILDING, FORESTRY, AND OTHER PROGRAMS.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which United States energy, transportation, industrial, agricultural, forestry, building, and other relevant programs are capable of producing progress on the long-term goal of stabilization of greenhouse gas concentrations; and

(II) the extent to which proposed or newly created energy, transportation, industrial, agricultural, forestry, building, and other relevant programs positively or negatively affect the ability of the United States to achieve the long-term goal of stabilization of greenhouse gas concentrations.

(ii) TAX, TRADE, AND FOREIGN POLICIES.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which the United States tax policy, trade policy, and foreign policy are capable of producing progress on the long-term goal of stabilization of greenhouse gas concentrations; and

(II) the extent to which proposed or newly created tax policy, trade policy, and foreign policy positively or negatively affect the ability of the United States to achieve the long-term goal of stabilization of greenhouse gas concentrations.

(iii) INTERNATIONAL TREATIES.—The Secretary of State, acting in conjunction with the Interagency Task Force and using the analytical tools available to the White House Office, shall provide to the Director of the White House Office an opinion that—

(I) specifies, to the maximum extent practicable, the economic and environmental costs and benefits of any proposed international treaties or components of treaties that have an influence on greenhouse gas management; and

(II) assesses the extent to which the treaties advance the long-term goal of stabilization of greenhouse gas concentrations, while minimizing adverse short-term and long-term economic and social impacts and considering other impacts.

(iv) CONSULTATION.—

(I) WITH MEMBERS OF INTERAGENCY TASK FORCE.—To the extent practicable and appropriate, the Director of the White House Office shall consult with all members of the Interagency Task Force and other interested parties before providing advice to the President.

(II) WITH OTHER INTERESTED PARTIES.—The Director of the White House Office shall establish a process for obtaining the meaningful participation of Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in the formulation of advice to be provided to the President.

(D) PUBLIC EDUCATION, AWARENESS, OUTREACH, AND INFORMATION-SHARING.—The Director of the White House Office, to the maximum extent practicable, shall promote public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues.

(4) ANNUAL REPORTS.—The Director of the White House Office, in consultation with the Interagency Task Force and other interested parties, shall prepare an annual report for submission by the President to Congress that—

(A) assesses progress in implementation of the Strategy;

(B) assesses progress, in the United States and in foreign countries, toward the long-term goal of stabilization of greenhouse gas concentrations;

(C) assesses progress toward meeting climate change-related international obligations;

(D) makes recommendations for actions by the Federal Government designed to close any gap between progress-to-date and the measures that are necessary to achieve the long-term goal of stabilization of greenhouse gas concentrations; and

(E) addresses the totality of actions in the United States that relate to the 4 key elements.

(5) ANALYSIS.—During development of the Strategy, preparation of the annual reports submitted under paragraph (5), and provision of advice to the President and the heads of Federal agencies, the Director of the White House Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any uncertainties associated with the analysis.

(c) STAFF.—

(1) IN GENERAL.—The Director of the White House Office shall employ a professional staff of not more than 25 individuals to carry out the duties of the White House Office.

(2) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Director of the White House Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and subchapter VI of chapter 33 of title 5, United States Code, and fellowships, to obtain staff from academia, scientific bodies, nonprofit organizations, and national laboratories, for appointments of a limited term.

(d) INTERAGENCY TASK FORCE.—

(1) IN GENERAL.—The Director of the White House Office shall establish the United States Climate Change Response Interagency Task Force.

(2) COMPOSITION.—The Interagency Task Force shall be composed of—

(A) the Director of the White House Office, who shall serve as Chairperson;

(B) the Secretary of State;

(C) the Secretary;

(D) the Secretary of Commerce;

(E) the Secretary of the Treasury;

(F) the Secretary of Transportation;

(G) the Secretary of Agriculture;

(H) the Administrator of the Environmental Protection Agency;

(I) the Administrator of the Agency for International Development;

(J) the United States Trade Representative;

(K) the National Security Advisor;

(L) the Chairman of the Council of Economic Advisers;

(M) the Chairman of the Council on Environmental Quality;

(N) the Director of the Office of Science and Technology Policy;

(O) the Chairperson of the Subcommittee on Global Change Research (which performs the functions of the Committee on Earth and Environmental Sciences established by section 102 of the Global Change Research Act of 1990 (15 U.S.C. 2932)); and

(P) the heads of such other Federal agencies as the Chairperson determines should be members of the Interagency Task Force.

(3) STRATEGY.—

(A) IN GENERAL.—The Interagency Task Force shall serve as the primary forum through which the Federal agencies represented on the Interagency Task Force jointly—

(i) assist the Director of the White House Office in developing and updating the Strategy; and

(ii) assist the Director of the White House Office in preparing annual reports under subsection (b)(5).

(B) REQUIRED ELEMENTS.—In carrying out subparagraph (A), the Interagency Task Force shall—

(i) take into account the long-term goal and other requirements of the Strategy specified in section 1015(a);

(ii) consult with State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties; and

(iii) build consensus around a Strategy that is based on strong scientific, technical, and economic analyses.

(4) WORKING GROUPS.—The Chairperson of the Interagency Task Force may establish such topical working groups as are necessary to carry out the duties of the Interagency Task Force.

(e) PROVISION OF SUPPORT STAFF.—In accordance with procedures established by the Chairperson of the Interagency Task Force, the Federal agencies represented on the Interagency Task Force shall provide staff from the agencies to support information, data collection, and analyses required by the Interagency Task Force.

(f) HEARINGS.—On request of the Chairperson, the Interagency Task Force may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Interagency Task Force considers to be appropriate.

SEC. 1017. TECHNOLOGY INNOVATION PROGRAM IMPLEMENTED THROUGH THE OFFICE OF CLIMATE CHANGE TECHNOLOGY OF THE DEPARTMENT OF ENERGY.

(a) ESTABLISHMENT OF OFFICE OF CLIMATE CHANGE TECHNOLOGY OF THE DEPARTMENT OF ENERGY.—

(1) IN GENERAL.—There is established, within the Department, the Office of Climate Change Technology.

(2) DUTIES.—The Department Office shall—

(A) manage an energy technology research and development program that directly supports the Strategy by—

(i) focusing on high-risk, bold, breakthrough technologies that—

(I) have significant promise of contributing to the national climate change policy of long-term stabilization of greenhouse gas concentrations by—

(aa) mitigating the emissions of greenhouse gases;

(bb) removing and sequestering greenhouse gases from emission streams; or

(cc) removing and sequestering greenhouse gases from the atmosphere;

(II) are not being addressed significantly by other Federal programs; and

(III) would represent a substantial advance beyond technology available on the date of enactment of this title;

(ii) forging fundamentally new research and development partnerships among various Department, other Federal, and State programs, particularly between basic science and energy technology programs, in cases in which such partnerships have significant potential to affect the ability of the United States to achieve stabilization of greenhouse gas concentrations at the lowest possible cost;

(iii) forging international research and development partnerships that are in the interests of the United States and make progress on stabilization of greenhouse gas concentrations;

(iv) making available, through monitoring, experimentation, and analysis, data that are essential to proving the technical and economic viability of technology central to addressing climate change; and

(v) transitioning research and development programs to other program offices of the Department once such a research and development program crosses the threshold of high-risk research and moves into the realm of more conventional technology development;

(B) prepare annual reports in accordance with subsection (b)(6);

(C) identify the total contribution of all Department programs to climate change response;

(D) provide substantial analytical support to the White House Office, particularly support in the development of the Strategy and associated progress reporting; and

(E) advise the Secretary on climate change-related issues, including necessary changes in Department organization, management, budgeting, and personnel allocation in the programs involved in climate change response-related activities.

(b) DIRECTOR OF THE DEPARTMENT OFFICE.—

(1) IN GENERAL.—The Department Office shall be headed by a Director, who shall report directly to the Secretary.

(2) APPOINTMENT.—The Director of the Department Office shall be an employee of the Federal Government who is a qualified individual appointed by the President.

(3) TERM.—The Director of the Department Office shall be appointed for a term of 4 years.

(4) VACANCIES.—A vacancy in the position of the Director of the Department Office shall be filled in the same manner as the original appointment was made.

(5) DUTIES OF THE DIRECTOR OF THE DEPARTMENT OFFICE.—

(A) TECHNOLOGY DEVELOPMENT.—The Director of the Department Office shall manage the energy technology research and development program described in subsection (a)(2)(A).

(B) STRATEGY.—The Director of the Department Office shall support development of the Strategy through the provision of staff and analytical support.

(C) INTERAGENCY TASK FORCE.—Through active participation in the Interagency Task Force, the Director of the Department Office shall—

(i) based on the analytical capabilities of the Department Office, share analyses of alternative climate change response strategies with other members of the Interagency Task Force to assist all members in understanding—

(I) the scale of the climate change response challenge; and

(II) how the actions of the Federal agencies of the members positively or negatively contribute to climate change solutions; and

(ii) determine how the energy technology research and development program described in subsection (a)(2)(A) can be designed for maximum impact on the long-term goal of stabilization of greenhouse gas concentrations.

(D) TOOLS, DATA, AND CAPABILITIES.—The Director of the Department Office shall foster the development of tools, data, and capabilities to ensure that—

(i) the United States has a robust capability for evaluating alternative climate change response scenarios; and

(ii) the Department Office provides long-term analytical continuity during the terms of service of successive Presidents.

(E) ADVISORY DUTIES.—The Director of the Department Office shall advise the Secretary on all aspects of climate change response.

(6) ANNUAL REPORTS.—The Director of the Department Office shall prepare an annual report for submission by the Secretary to Congress and the White House Office that—

(A) assesses progress toward meeting the goals of the energy technology research and development program described in subsection (a)(2)(A);

(B) assesses the activities of the Department Office;

(C) assesses the contributions of all energy technology research and development programs of the Department (including science programs) to the long-term goal and other requirements of the Strategy specified in section 1015(a); and

(D) makes recommendations for actions by the Department and other Federal agencies to address the components of technology development that are necessary to support the Strategy.

(7) ANALYSIS.—During development of the Strategy, annual reports submitted under paragraph (6), and advice to the Secretary, the Director of the Department Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any associated uncertainties.

(c) STAFF.—The Director of the Department Office shall employ a professional staff of not more than 25 individuals to carry out the duties of the Department Office.

(d) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Department Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.), subchapter VI of chapter 33 of title 5, United States Code, and other Departmental personnel authorities, to obtain staff from academia, scientific bodies, nonprofit organizations, industry, and national laboratories, for appointments of a limited term.

(e) RELATIONSHIP TO OTHER DEPARTMENT PROGRAMS.—Each project carried out by the Department Office shall be—

(1) initiated only after consultation with 1 or more other appropriate program offices of the Department that support research and development in areas relating to the project;

(2) managed by the Department Office; and

(3) in the case of a project that reaches a sufficient level of maturity, with the concurrence of the Department Office and an appropriate office described in paragraph (1), transferred to the appropriate office, along with the funds necessary to continue the project to the point at which non-Federal funding can provide substantial support for the project.

(f) ANALYSIS OF STRATEGIC CLIMATE CHANGE RESPONSE.—

(1) IN GENERAL.—

(A) GOAL.—The Department Office shall foster the development and application of advanced computational tools, data, and capabilities that, together with the capabilities of other federal agencies, support integrated assessment of alternative climate change response scenarios and implementation of the Strategy.

(B) PARTICIPATION AND SUPPORT.—Projects supported by the Department Office may include participation of, and be supported by, other Federal agencies that have a role in the development, commercialization, or transfer of energy, transportation, industrial, agricultural, forestry, or other climate change-related technology.

(2) PROGRAMS.—

(A) IN GENERAL.—The Department Office shall—

(i) develop and maintain core analytical competencies and complex, integrated computational modeling capabilities that, together with the capabilities of other federal agencies, are necessary to support the design and implementation of the Strategy; and

(ii) track United States and international progress toward the long-term goal of stabilization of greenhouse gas concentrations.

(B) INTERNATIONAL CARBON DIOXIDE SEQUESTRATION MONITORING AND DATA PROGRAM.—In consultation with Federal, State, academic, scientific, private sector, nongovernmental, tribal, and international carbon capture and sequestration technology programs, the Department Office shall design and carry out an international carbon dioxide sequestration monitoring and data program to collect, analyze, and make available the technical and economic data to ascertain—

(i) whether engineered sequestration and terrestrial sequestration will be acceptable technologies from regulatory, economic, and international perspectives;

(ii) whether carbon dioxide sequestered in geological formations or ocean systems is stable and has inconsequential leakage rates on a geologic time-scale; and

(iii) the extent to which forest, agricultural, and other terrestrial systems are suitable carbon sinks.

(3) AREAS OF EXPERTISE.—

(A) IN GENERAL.—The Department Office shall develop and maintain expertise in integrated assessment, modeling, and related capabilities necessary—

(i) to understand the relationship between natural, agricultural, industrial, energy, and economic systems;

(ii) to design effective research and development programs; and

(iii) to develop and implement the Strategy.

(B) TECHNOLOGY TRANSFER AND DIFFUSION.—The expertise described in clause (i) shall include knowledge of technology transfer and technology diffusion in United States markets and foreign markets.

(4) DISSEMINATION OF INFORMATION.—The Department Office shall ensure, to the maximum extent practicable, that technical and scientific knowledge relating to greenhouse gas emission reduction, avoidance, and sequestration is broadly disseminated through publications, fellowships, and training programs.

(5) ASSESSMENTS.—In a manner consistent with the Strategy, the Department shall conduct assessments of deployment of climate-friendly technology.

(6) USE OF PRIVATE SECTOR FUNDING.—

(A) IN GENERAL.—The Department Office shall create an operating model that allows for collaboration, division of effort, and cost sharing with industry on individual climate change response projects.

(B) REQUIREMENTS.—Although cost sharing in some cases may be appropriate, the Department Office shall focus on long-term high-risk research and development and should not make industrial partnerships or cost sharing a requirement, if such a requirement would bias the activities of the Department Office toward incremental innovations.

(C) REEVALUATION ON TRANSITION.—At such time as any bold, breakthrough research and development program reaches a sufficient level of technological maturity such that the program is transitioned to a program office of the Department other than the Department Office, the cost-sharing requirements and criteria applicable to the program should be reevaluated.

(D) PUBLICATION IN FEDERAL REGISTER.—Each cost-sharing agreement entered into under this subparagraph shall be published in the Federal Register.

SEC. 1018. ADDITIONAL OFFICES AND ACTIVITIES.

The Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies may establish such offices and carry out such activities, in addition to those established or authorized by this Act, as are necessary to carry out this Act.

SEC. 1019. UNITED STATES CLIMATE CHANGE RESPONSE STRATEGY REVIEW BOARD.

(a) ESTABLISHMENT.—There is established as an independent establishment within the executive branch the United States Climate Change Response Strategy Review Board.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Review Board shall consist of 11 members who shall be appointed, not later than 90 days after the date of enactment of this Act, by the President by and with the advice and consent of the Senate, from among qualified individuals nominated by the National Academy of Sciences in accordance with paragraph (2).

(2) NOMINATIONS.—Not later than 60 days after the date of enactment of this Act, after taking into strong consideration the guidance and recommendations of a broad range of scientific and technical societies that have the capability of recommending qualified individuals, the National Academy of Sciences shall nominate for appointment to the Review Board not fewer than 22 individuals who—

(A) are—

(i) qualified individuals; or

(ii) experts in a field of knowledge specified in section 1014(9)(B); and

(B) as a group represent broad, balanced expertise.

(3) PROHIBITION ON FEDERAL GOVERNMENT EMPLOYMENT.—A member of the Review Board shall not be an employee of the Federal Government.

(4) TERMS; VACANCIES.—

(A) TERMS.—

(i) IN GENERAL.—Subject to clause (ii), each member of the Review Board shall be appointed for a term of 4 years.

(ii) INITIAL TERMS.—

(I) COMMENCEMENT DATE.—The term of each member initially appointed to the Review Board shall commence 120 days after the date of enactment of this title.

(II) TERMINATION DATE.—Of the 11 members initially appointed to the Review Board, 5 members shall be appointed for a term of 2 years and 6 members shall be appointed for a term of 4 years, to be designated by the President at the time of appointment.

(B) VACANCIES.—

(i) IN GENERAL.—A vacancy on the Review Board shall be filled in the manner described in this subparagraph.

(ii) NOMINATIONS BY THE NATIONAL ACADEMY OF SCIENCES.—Not later than 60 days after the date on which a vacancy commences, the National Academy of Sciences shall—

(I) after taking into strong consideration the guidance and recommendations of a broad range of scientific and technical societies that have the capability of recommending qualified individuals, nominate, from among qualified individuals, not fewer than 2 individuals to fill the vacancy; and

(II) submit the names of the nominees to the President.

(iii) SELECTION.—Not later than 30 days after the date on which the nominations under clause (ii) are submitted to the President, the President shall select from among the nominees an individual to fill the vacancy.

(iv) SENATE CONFIRMATION.—An individual appointed to fill a vacancy on the Review Board shall be appointed by and with the advice and consent of the Senate.

(5) APPLICABILITY OF ETHICS IN GOVERNMENT ACT OF 1978.—A member of the Review Board shall be deemed to be an individual subject to the Ethics in Government Act of 1978 (5 U.S.C. App.).

(6) CHAIRPERSON; VICE CHAIRPERSON.—The members of the Review Board shall select a Chairperson and a Vice Chairperson of the Review Board from among the members of the Review Board.

(c) DUTIES.—

(1) IN GENERAL.—Not later than 180 days after the date of submission of the initial Strategy under section 1015(b), each updated version of the Strategy under section 1015(c), and each progress report under section 1015(d), the Review Board shall submit to the President, Congress, and the heads of Federal agencies as appropriate a report assessing the adequacy of the Strategy or report.

(2) COMMENTS.—In reviewing the Strategy or a report under paragraph (1), the Review Board shall consider and comment on—

(A) the adequacy of effort and the appropriateness of focus of the totality of all public, private, and public-private sector actions of the United States with respect to the 4 key elements;

(B) the extent to which actions of the United States, with respect to climate change, complement or leverage international research and other efforts designed to manage global emissions of greenhouse gases, to further the long-term goal of stabilization of greenhouse gas concentrations;

(C) the funding implications of any recommendations made by the Review Board; and

(D)(i) the effectiveness with which each Federal agency is carrying out the responsibilities of the Federal agency with respect to the short-term and long-term greenhouse gas management goals; and

(ii) the adequacy of the budget of each such Federal agency to carry out those responsibilities.

(3) ADDITIONAL RECOMMENDATIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Review Board, at the request of the President or Congress, may provide recommendations on additional climate change-related topics.

(B) SECONDARY DUTY.—The provision of recommendations under subparagraph (A) shall be a secondary duty to the primary duty of the Review Board of providing independent review of the Strategy and the reports under paragraphs (1) and (2).

(d) POWERS.—

(1) HEARINGS.—

(A) IN GENERAL.—On request of the Chairperson or a majority of the members of the Review Board, the Review Board may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Review Board considers to be appropriate.

(B) ADMINISTRATION OF OATHS.—Any member of the Review Board may administer an oath or affirmation to any witness that appears before the Review Board.

(2) PRODUCTION OF DOCUMENTS.—

(A) IN GENERAL.—On request of the Chairperson or a majority of the members of the Review Board, and subject to applicable law, the Secretary or head of a Federal agency represented on the Interagency Task Force, or a contractor of such an agency, shall provide the Review Board with such records, files, papers, data, and information as are necessary to respond to any inquiry of the Review Board under this Act.

(B) INCLUSION OF WORK IN PROGRESS.—Subject to applicable law, information obtainable under subparagraph (A)—

(i) shall not be limited to final work products; but

(ii) shall include draft work products and documentation of work in progress.

(3) POSTAL SERVICES.—The Review Board may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(e) COMPENSATION OF MEMBERS.—A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(f) TRAVEL EXPENSES.—A member of the Review Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Review Board.

(g) STAFF.—

(1) IN GENERAL.—The Chairperson of the Review Board may, without regard to the provisions of title 5, United States Code, regarding appointments in the competitive service, appoint and terminate an executive director and such other additional personnel

as are necessary to enable the Review Board to perform the duties of the Review Board.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Review Board.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Review Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(h) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Review Board may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 1020. AUTHORIZATION OF APPROPRIATIONS.

(a) WHITE HOUSE OFFICE.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this Title is enacted, the President shall provide such sums as are necessary to carry out the duties of the White House Office under this title until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the White House Office to carry out the duties of the White House Office under this Title $5,000,000 for each of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(b) DEPARTMENT OFFICE.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this title is enacted, the President shall provide such sums as are necessary to carry out the duties of the Department Office under this Title until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department Office to carry out the duties of the Department Office under this title $4,750,000,000 for the period of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(c) REVIEW BOARD.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this title is enacted, the President shall provide such sums as are necessary to carry out the duties of the Review Board under this title until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Review Board to carry out the duties of the Review Board under this title $3,000,000 for each of fiscal years 2003 through 2011, to remain available until expended.

(d) ADDITIONAL AMOUNTS.—Amounts authorized to be appropriated under this section shall be in addition to—

(1) amounts made available to carry out the United States Global Change Research Program under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.); and

(2) amounts made available under other provisions of law for energy research and development.

Subtitle C—Science and Technology Policy

SEC. 1031. GLOBAL CLIMATE CHANGE IN THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

Section 101(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601(b)) is amended—

(1) by redesignating paragraphs (7) through (13) as paragraphs (8) through (14), respectively; and

(2) by inserting after paragraph (6) the following:

''(7) improving efforts to understand, assess, predict, mitigate, and respond to global climate change;''.

SEC. 1032. ESTABLISHMENT OF ASSOCIATE DIRECTOR FOR GLOBAL CLIMATE CHANGE.

Section 203 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6612) is amended—

(1) by striking ''four'' in the second sentence and inserting ''five''; and

(2) by striking ''title.'' in the second sentence and inserting ''title, one of whom shall be responsible for global climate change science and technology under the Office of Science and Technology Policy.''.

Subtitle D—Miscellaneous Provisions

SEC. 1041. ADDITIONAL INFORMATION FOR REGULATORY REVIEW.

In each case that an agency prepares and submits a Statement of Energy Effects pursuant to Executive Order 13211 of May 18, 2001 (relating to actions concerning regulations that significantly affect energy supply, distribution, or use), or as part of compliance with Executive Order 12866 of September 30, 1993 (relating to regulatory planning and review) or its successor, the agency shall also submit an estimate of the change in net annual greenhouse gas emissions resulting from the proposed significant energy action. In the case in which there is an increase in net annual greenhouse gas emissions as a result of the proposed significant energy action, the agency shall indicate what policies or measures will be undertaken to mitigate or offset the increased emissions.

SEC. 1042. GREENHOUSE GAS EMISSIONS FROM FEDERAL FACILITIES.

(a) METHODOLOGY.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this section, the Secretary of Energy, Secretary of Agriculture, Secretary of Commerce, and Administrator of the Environmental Protection Agency shall publish a jointly developed methodology for preparing estimates of annual net greenhouse gas emissions from all Federally owned, leased, or operated facilities and emission sources, including mobile sources.

(2) INDIRECT AND OTHER EMISSIONS.—The methodology under paragraph (1) shall include emissions resulting from any Federal procurement action with an annual Federal expenditure of greater than $100 million, indirect emissions associated with Federal electricity consumption, and other emissions resulting from Federal actions that the heads of the agencies under paragraph (1) may jointly decide to include in the estimates.

(b) PUBLICATION.—Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary of Energy shall publish an estimate of annual net greenhouse gas emissions from all Federally owned, leased, or operated facilities and emission sources, using the methodology published under subsection (a).

TITLE XI—NATIONAL GREENHOUSE GAS DATABASE

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) is complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and,

(3) will encourage and acknowledge greenhouse gas emissions reductions.

SEC. 1102. DEFINITIONS.

In this title—

(1) DATABASE.—The term ''database'' means the National Greenhouse Gas Database established under section 1104.

(2) DESIGNATED AGENCY OR AGENCIES.—The term ''Designated Agency or Agencies'' means the Department or Departments and/or Agency or Agencies given the responsibility for a function or program under the Memorandum of Agreement entered into pursuant to Section 1103.

(3) DIRECT EMISSIONS.—The term ''direct emissions'' means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(4) ENTITY.—The term ''entity'' means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(5) FACILITY.—The term ''facility'' means all buildings, structures, or installations located on any one or more of contiguous or adjacent property or properties, or a fleet of 20 or more transportation vehicles, under common control of the same entity.

(6) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluororcarbons;

(E) perfluorocarbons; and

(F) sulfur hexafluoride.

(7) INDIRECT EMISSIONS.—The term ''indirect emissions'' means greenhouse gas emissions that are a consequence of the activities of an entity but that are emitted from a facility owned or controlled by another entity and are not already reported as direct emissions by a covered entity.

(8) SEQUESTRATION.—The term ''sequestration'' means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) Not later than one year after the date of enactment of this title, the President, acting through the Chairman of the Council on Environmental Quality, shall direct the Department of Energy, the Department of Commerce, the Department of Agriculture, the Department of Transportation and the Environmental Protection Agency, to enter into a Memorandum of Agreement that will—

(1) recognize and maintain existing statutory and regulatory authorities, functions and programs that collect data on greenhouse gas emissions and effects and that are necessary for the operation of the National Greenhouse Gas Database;

(2) distribute additional responsibilities and activities identified by this title to Federal departments or agencies according to their mission and expertise and to maximize the use of existing resources; and

(3) provide for the comprehensive collection and analysis of data on the emissions related to product use, including fossil fuel and energy consuming appliances and vehicles.

(b) The Memorandum of Agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the respective Departments and agencies:

(1) The Department of Energy shall be primarily responsible for developing, maintaining, and verifying the emissions reduction registry, under both this title and its authority under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) The Department of Commerce shall be primarily responsible for the development of measurement standards for emissions monitoring and verification technologies and methods to ensure that there is a consistent and technically accurate record of emissions, reductions and atmospheric concentrations of greenhouse gases for the database under this title.

(3) The Environmental Protection Agency shall be primarily responsible for emissions monitoring, measurement, verification and data collection, pursuant to this title and existing authority under Titles IV and VIII of the Clean Air Act, and including mobile source emissions information from implementation of the Corporate Average Fuel Economy program (49 U.S.C. Chapter 329), and the Agency's role in completing the national inventory for compliance with the United Nations Framework Convention on Climate Change.

(c) The Chairman shall publish a draft version of the Memorandum of Agreement in the Federal Register and solicit comments on it as soon as practicable and publish the final Memorandum of Agreement in the Federal Register not later than 15 months after the date of enactment of this title.

(d) The final Memorandum of Agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

(a) ESTABLISHMENT.—The Designated Agency or Agencies, working in consultation with the private sector and nongovernmental organizations, shall establish, operate and maintain a database to be known as the National Greenhouse Gas Database to collect, verify, and analyze information on—

(1) greenhouse gas emissions by entities located in the United States; and

(2) greenhouse gas emission reductions by entities based in the United States.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of an inventory of greenhouse gas emissions and a registry of greenhouse gas emissions reductions.

(c) DEADLINE.—Not later than 2 years after the date of enactment of this title, the Designated Agency or Agencies shall promulgate a rule to implement a comprehensive system for greenhouse gas emissions reporting, inventorying and reductions registration. The Designated Agency or Agencies shall ensure that the system is designed to maximize completeness, transparency, and accuracy and to minimize measurement and reporting costs for covered entities.

(d) REQUIRED ELEMENTS OF DATABASE REPORTING SYSTEM.—

(1) MANDATORY REPORTING.—

(A) Beginning one year after promulgation of the final rule issued under subsection (c), each entity that exceeds the greenhouse gas emissions threshold in paragraph (2) shall report annually to the Designated Agency or Agencies, for inclusion in the National Greenhouse Gas Database, the entity-wide emissions of greenhouse gases in the previous calendar year. Such reports are due annually to the Designated Agency or Agencies, but must be submitted no later than April 30 of each calendar year in support of the previous years' emission reporting requirements.

(B) Each report submitted shall include:

(i) direct emissions from stationary sources;

(ii) direct emissions from vehicles owned or controlled by a covered entity;

(iii) direct emissions from any land use activities that release significant quantities of greenhouse gases;

(iv) indirect emissions from all outsourced activities, contract manufacturing, wastes transferred from the control of an entity, and other relevant instances, as determined to be practicable under the rule;

(v) indirect emissions from electricity, heat, and steam imported from another entity, as determined to be practicable under the rule;

(vi) the production, distribution or import of greenhouse gases listed under section 1102 by an entity; and

(vii) such other categories, which the designated Agency or Agencies determine by rule, after public notice and comment, should be included to accomplish the purposes of this title.

(C) Each report shall include total mass quantities for each greenhouse gas emitted, and in terms of carbon dioxide equivalent.

(D) Each report shall include the greenhouse gas emissions per unit of output by an entity, such as tons of carbon dioxide per kilowatt-hour or a similar metric.

(E) The first report shall be required to be submitted not later than April 30 of the fourth year after the date of enactment of this title.

(2) THRESHOLD FOR REPORTING.—

(A) An entity shall not be required to make a report under paragraph (1) unless:

(i) the total greenhouse gas emissions of at least one facility owned by an entity in the calendar year for reporting exceeds 10,000 metric tons of carbon dioxide equivalent, or a greater level as determined by rule; or,

(ii) the total quantity of greenhouse gases produced, distributed or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent, or a greater level as determined by rule.

(B) the final rule promulgated under section 1104(c) and subsequent revisions to that rule with respect to the threshold for reporting in subparagraph (A) shall capture information on no less than 75 percent of greenhouse gas emissions from entities.

(3) METHOD OF REPORTING.—Entity-wide emissions shall be reported at the facility level.

(4) ADDITIONAL VOLUNTARY REPORTING.—An entity may voluntarily report to the Designated Agency or Agencies, for inclusion in the registry portion of the national database—

(A) with respect to the preceding calendar year and any greenhouse gas emitted by the entity—

(i) project reductions from facilities owned or controlled by the reporting entity in the United States;

(ii) transfers of project reductions to and from any other entity;

(iii) project reductions and transfers of project reductions outside the United States;

(iv) other indirect emissions that are not required to be reported under subsection (d); and

(v) product use phase emissions; and

(B) with respect to greenhouse gas emissions reductions activities carried out since 1990 and verified according to rules implementing subparagraph (6) of this subsection and submitted to the Designated Agency or Agencies before the date that is three years after the date of enactment of this title, those reductions that have been reported or submitted by an entity under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs.

(5) TYPES OF ACTIVITIES.—Under paragraph (4), an entity may report projects that reduce greenhouse gas emissions or sequester a greenhouse gas, including—

(A) fuel switching;

(B) energy efficiency improvements;

(C) use of renewable energy;

(D) use of combined heat and power systems;

(E) management of cropland, grassland, and grazing land;

(F) forestry activities that increase forest carbon stocks or reduce forest carbon emissions;

(G) carbon capture and storage;

(H) methane recovery; and

(I) greenhouse gas offset investments.

(6) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each reporting entity shall provide information sufficient for the Designated Agency or Agencies to verify, in accordance with measurement and verification criteria developed under Section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each additional voluntary report, represents—

(i) actual reductions in direct greenhouse gas emissions relative to historic emission levels and net of any related increases in direct emissions, or

(ii) actual increases in net sequestration.

(7) INDEPENDENT THIRD-PARTY VERIFICATION.—A reporting entity may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to the Designated Agency or Agencies for consideration by the Designated Agency or Agencies in carrying out paragraph (1).

(8) DATA QUALITY.—The rule under subsection (c)shall establish procedures and protocols needed to—

(A) prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than one reporting entity;

(B) provide for corrections to errors in data submitted to the database;

(C) provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture),in order to maintain comparability among data in the database over time;

(D) provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and,

(E) account for changes in registration of ownership of emissions reductions resulting from a voluntary private transaction between reporting entities.

(9) AVAILABILITY OF DATA.—The Designated Agency or Agencies shall ensure that information in the database is published, accessible to the public, and made available in electronic format on the Internet, except in cases where the Designated Agency or Agencies determine that publishing or making available the information would disclose information vital to national security.

(10) DATA INFRASTRUCTURE.—The Designated Agency or Agencies shall ensure that the database established by this Act shall utilize and is integrated with existing Federal, regional, and state greenhouse gas data collection and reporting systems to the maximum extent possible and avoid duplication of such systems.

(11) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the rules for and implementing the Database, the Designated Agency or Agencies shall consider a broad range of issues involved in establishing an effective database, including the following:

(A) UNITS FOR REPORTING.—The appropriate units for reporting each greenhouse gas, and whether to require reporting of emission efficiency rates (including emissions per kilowatt-hour for electricity generators) in addition to mass emissions of greenhouse gases,

(B) INTERNATIONAL CONSISTENCY.—The greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant; and

(C) DATA SUFFICIENCY.—The extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement a comprehensive National Greenhouse Gas Database.

(e) ENFORCEMENT.—The Attorney General may, at the request of the Designated Agency or Agencies, bring a civil action in United States District Court against an entity that fails to comply with reporting requirements under this section, to impose a civil penalty of not more than $25,000 for each day that the failure to comply continues.

(f) ANNUAL REPORT.—The Designated Agency or Agencies shall publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported, and

(3) describes the atmospheric concentrations of greenhouse gases and tracks such information over time.

SEC. 1105. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

Not later than 3 years after the date of enactment of this title, the President shall submit to Congress a report identifying any changes needed to this title or to other provisions of law to improve the accuracy or operation of the Greenhouse Gas Database and related programs under this title.

SEC. 1106. MEASUREMENT AND VERIFICATION.

The Designated Agency or Agencies shall, not later than 1 year after the date of enactment of this title, design and develop comprehensive measurement and verification methods and standards o ensure a consistent and technically accurate record of greenhouse gas emissions, reductions, and atmospheric concentrations for use in the national greenhouse gas database. The Agency or Agencies shall periodically review and revise these methods and standards as necessary.

SEC. 1107. INDEPENDENT REVIEW.

(a) The General Accounting Office shall submit a report to Congress five years after the date of enactment of this title, and every three years thereafter, providing a review of the efficacy of the implementation and operation of the National Greenhouse Gas Database established in section 1104 and making recommendations for improvements to the programs created pursuant to this title and changes to the law that will achieve a consistent and technically accurate record of greenhouse gas emissions, reductions, and atmospheric concentrations and the other purposes of this title.

(b) The Designated Agency or Agencies shall enter into an agreement with the National Academy of Sciences to review the scientific methods, assumptions and standards used by the Agency or Agencies implementing this title, and to report to Congress not later than four years after the date of enactment of this title with recommendations for improving those methods and standards or related elements of the programs or structure of the reporting and registry system established by this title.

SEC. 1108. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out the activities and programs included in this title.

DIVISION E—ENHANCING RESEARCH, DEVELOPMENT, AND TRAINING

TITLE XII—ENERGY RESEARCH AND DEVELOPMENT PROGRAMS

SEC. 1201. SHORT TITLE.

This division may be cited as the ''Energy Science and Technology Enhancement Act of 2002''.

SEC. 1202. FINDINGS.

The Congress finds the following:

(1) A coherent national energy strategy requires an energy research and development program that supports basic energy research and provides mechanisms to develop, demonstrate, and deploy new energy technologies in partnership with industry.

(2) An aggressive national energy research, development, demonstration, and technology deployment program is an integral part of a national climate change strategy, because it can reduce—

(A) United States energy intensity by 1.9 percent per year from 1999 to 2020;

(B) United States energy consumption in 2020 by 8 quadrillion Btu from otherwise expected levels; and

(C) United States carbon dioxide emissions from expected levels by 166 million metric tons in carbon equivalent in 2020.

(3) An aggressive national energy research, development, demonstration, and technology deployment program can help maintain domestic United States production of energy, increase United States hydrocarbon reserves by 14 percent, and lower natural gas prices by 20 percent, compared to estimates for 2020.

(4) An aggressive national energy research, development, demonstration, and technology deployment program is needed if United States suppliers and manufacturers are to compete in future markets for advanced energy technologies.

SEC. 1203. DEFINITIONS.

In 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 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) NATIONAL LABORATORY.—The term ''National Laboratory'' means any of the following multi-purpose laboratories owned by the Department of Energy—

(A) Argonne National Laboratory;

(B) Brookhaven National Laboratory;

(C) Idaho National Engineering and Environmental Laboratory;

(D) Lawrence Berkeley National Laboratory;

(E) Lawrence Livermore National Laboratory;

(F) Los Alamos National Laboratory;

(G) National Energy Technology Laboratory;

(H) National Renewable Energy Laboratory;

(I) Oak Ridge National Laboratory;

(J) Pacific Northwest National Laboratory; or

(K) Sandia National Laboratory.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(6) TECHNOLOGY DEPLOYMENT.—The term ''technology deployment'' means activities to promote acceptance and utilization of technologies in commercial application, including activities undertaken pursuant to section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) or section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12007).

SEC. 1204. CONSTRUCTION WITH OTHER LAWS.

Except as otherwise provided in this title and title XIV, the Secretary shall carry out the research, development, demonstration, and technology deployment programs authorized by this title in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 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.), or any other Act under which the Secretary is authorized to carry out such activities.

SUBTITLE A—ENERGY EFFICIENCY

SEC. 1211. ENHANCED ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct balanced energy research, development, demonstration, and technology deployment programs to enhance energy efficiency in buildings, industry, power technologies, and transportation.

(b) PROGRAM GOALS.—

(1) ENERGY-EFFICIENT HOUSING.—The goal of the energy-efficient housing program shall be to develop, in partnership with industry, enabling technologies (including lighting technologies), designs, production methods, and supporting activities that will, by 2010—

(A) cut the energy use of new housing by 50 percent, and

(B) reduce energy use in existing homes by 30 percent.

(2) INDUSTRIAL ENERGY EFFICIENCY.—The goal of the industrial energy efficiency program shall be to develop, in partnership with industry, enabling technologies, designs, production methods, and supporting activities that will, by 2010, enable energy-intensive industries such as the following industries to reduce their energy intensity by at least 25 percent:

(A) the wood product manufacturing industry;

(B) the pulp and paper industry;

(C) the petroleum and coal products manufacturing industry;

(D) the mining industry;

(E) the chemical manufacturing industry;

(F) the glass and glass product manufacturing industry;

(G) the iron and steel mills and ferroalloy manufacturing industry;

(H) the primary aluminum production industry;

(I) the foundries industry; and

(J) U.S. agriculture.

(3) TRANSPORTATION ENERGY EFFICIENCY.—The goal of the transportation energy efficiency program shall be to develop, in partnership with industry, technologies that will enable the achievement—

(A) by 2010, passenger automobiles with a fuel economy of 80 miles per gallon;

(B) by 2010, light trucks (classes 1 and 2a) with a fuel economy of 60 miles per gallon;

(C) by 2010, medium trucks and buses (classes 2b through 6 and class 8 transit buses) with a fuel economy, in ton-miles per gallon, that is three times that of year 2000 equivalent vehicles;

(D) by 2010, heavy trucks (classes 7 and 8) with a fuel economy, in ton-miles per gallon, that is two times that of year 2000 equivalent vehicles; and

(E) by 2015, the production of fuel-cell powered passenger vehicles with a fuel economy of 110 miles per gallon.

(4) ENERGY EFFICIENT DISTRIBUTED GENERATION—The goals of the energy efficient on-site generation program shall be to help remove environmental and regulatory barriers to on-site, or distributed, generation and combined heat and power by developing technologies by 2015 that achieve—

(A) electricity generating efficiencies greater than 40 percent for on-site generation technologies based upon natural gas, including fuel cells, microturbines, reciprocating engines and industrial gas turbines;

(B) combined heat and power total (electric and thermal) efficiencies of more than 85 percent;

(C) fuel flexibility to include hydrogen, biofuels and natural gas;

(D) near zero emissions of pollutants that form smog and acid rain;

(E) reduction of carbon dioxide emissions by at least 40 percent;

(F) packaged system integration at end user facilities providing complete services in heating, cooling, electricity and air quality; and

(G) increased reliability for the consumer and greater stability for the national electricity grid.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—

(1)$700,000,000 for fiscal year 2003;

(2) $784,000,000 for fiscal year 2004;

(3) $878,000,000 for fiscal year 2005; and

(4) $983,000,000 for fiscal year 2006.

(d) LIMITATION ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (c) may be used for the following programs of the Department—

(1) Weatherization Assistance Program;

(2) State Energy Program; or

(3) Federal Energy Management Program.

SEC. 1212. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT AND AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1211(c), there are authorized to be appropriated not more than $50,000,000 in any fiscal year, for an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary of Energy shall submit to the Committee on Science and the Committee on Appropriations of the United States House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, an annual report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

SEC. 1213. NEXT GENERATION LIGHTING INITIATIVE.

(a) ESTABLISHMENT.—There is established in the Department a Next Generation Lighting Initiative to research, develop, and conduct demonstration activities on advanced solid-state lighting technologies based on white light emitting diodes.

(b) OBJECTIVES.—

(1) IN GENERAL.—The objectives of the initiative shall be to develop, by 2011, advanced solid-state lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are—

(A) longer lasting;

(B) more energy-efficient; and

(C) cost-competitive.

(2) INORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the initiative with respect to inorganic white light emitting diodes shall be to develop an inorganic white light emitting diode that has an efficiency of 160 lumens per watt and a 10–year lifetime.

(3) ORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the initiative with respect to organic white light emitting diodes shall be to develop an organic white light emitting diode with an efficiency of 100 lumens per watt with a 5–year lifetime that—

(A) illuminates over a full color spectrum;

(B) covers large areas over flexible surfaces; and

(C) does not contain harmful pollutants typical of fluorescent lamps such as mercury.

(c) CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall initiate and manage basic and manufacturing-related research on advanced solid-state lighting technologies based on white light emitting diodes for the initiative, in cooperation with the Next Generation Lighting Initiative Consortium.

(2) COMPOSITION.—The consortium shall be composed of firms, national laboratories, and other entities so that the consortium is representative of the United States solid state lighting research, development, and manufacturing expertise as a whole.

(3) FUNDING.—The consortium shall be funded by—

(A) participation fees; and

(B) grants provided under subsection (e)(1).

(4) ELIGIBILITY.—To be eligible to receive a grant under subsection (e)(1), the consortium shall—

(A) enter into a consortium participation agreement that—

(i) is agreed to by all participants; and

(ii) describes the responsibilities of participants, participation fees, and the scope of research activities; and

(B) develop an annual program plan.

(5) INTELLECTUAL PROPERTY.—Participants in the consortium shall have royalty-free nonexclusive rights to use intellectual property derived from consortium research conducted under subsection (e)(1).

(d) PLANNING BOARD.—

(1) IN GENERAL.—Not later than 90 days after the establishment of the consortium, the Secretary shall establish and appoint the members of a planning board, to be known as the ''Next Generation Lighting Initiative Planning Board'', to assist the Secretary in carrying out this section.

(2) COMPOSITION.—The planning board shall be composed of—

(A) 4 members from universities, national laboratories, and other individuals with expertise in advanced solid-state lighting and technologies based on white light emitting diodes; and

(B) 3 members from a list of not less than 6 nominees from industry submitted by the consortium.

(3) STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date on which the Secretary appoints members to the planning board, the planning board shall complete a study on strategies for the development and implementation of advanced solid-state lighting technologies based on white light emitting diodes.

(B) REQUIREMENTS.—The study shall develop a comprehensive strategy to implement, through the initiative, the use of white light emitting diodes to increase energy efficiency and enhance United States competitiveness.

(C) IMPLEMENTATION.—As soon as practicable after the study is submitted to the Secretary, the Secretary shall implement the initiative in accordance with the recommendations of the planning board.

(4) TERMINATION.—The planning board shall terminate upon completion of the study under paragraph (3).

(e) GRANTS.—

(1) FUNDAMENTAL RESEARCH.—The Secretary, through the consortium, shall make grants to conduct basic and manufacturing-related research related to advanced solid-state lighting technologies based on white light emitting diode technologies.

(2) TECHNOLOGY DEVELOPMENT AND DEMONSTRATION.—The Secretary shall enter into grants, contracts, and cooperative agreements to conduct or promote technology research, development, or demonstration activities. In providing funding under this paragraph, the Secretary shall give preference to participants in the consortium.

(3) CONTINUING ASSESSMENT.—The consortium, in collaboration with the Secretary, shall formulate annual operating and performance objectives, develop technology roadmaps, and recommend research and development priorities for the initiative. The Secretary may also establish or utilize advisory committees, or enter into appropriate arrangements with the National Academy of Sciences, to conduct periodic reviews of the initiative. The Secretary shall consider the results of such assessment and review activities in making funding decisions under paragraphs (1) and (2) of this subsection.

(4) TECHNICAL ASSISTANCE.—The National Laboratories shall cooperate with and provide technical assistance to persons carrying out projects under the initiative.

(5) AUDITS.—

(A) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds made available under this section have been expended in a manner that is consistent with the objectives under subsection (b) and, in the case of funds made available to the consortium, the annual program plan of the consortium under subsection (c)(4)(B).

(B) REPORTS.—The auditor shall submit to Congress, the Secretary, and the Comptroller General of the United States an annual report containing the results of the audit.

(6) APPLICABLE LAW.—Grants, contracts, and cooperative agreements under this section shall not be subject to the Federal Acquisition Regulation.

(f) PROTECTION OF INFORMATION.—Information obtained by the Federal Government on a confidential basis under this section shall be considered to constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential under section 552(b)(4) of title 5, United States Code.

(g) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 1211(c), there are authorized to be appropriated for activities under this section $50,000,000 for each of fiscal years 2003 through 2011.

(h) DEFINITIONS.—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) CONSORTIUM.—The term ''consortium'' means the Next Generation Lighting Initiative Consortium under subsection (c).

(3) INITIATIVE.—The term ''initiative'' means the Next Generation Lighting Initiative established under subsection (a).

(4) INORGANIC WHITE LIGHT EMITTING DIODE.—The term ''inorganic white light emitting diode'' means an inorganic semiconducting package that produces white light using externally applied voltage.

(5) ORGANIC WHITE LIGHT EMITTING DIODE.—The term ''organic white light emitting diode'' means an organic semiconducting compound that produces white light using externally applied voltage.

(6) WHITE LIGHT EMITTING DIODE.—The term ''white light emitting diode'' means—

(A) an inorganic white light emitting diode; or

(B) an organic white light emitting diode.

SEC. 1214. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary shall, in cooperation with the Secretaries of Transportation and Defense, and the Administrator of the Environmental Protection Agency, establish a public-private research partnership involving the federal government, railroad carriers, locomotive manufacturers, and the Association of American Railroads. The goal of the initiative shall include developing and demonstrating locomotive technologies that increase fuel economy, reduce emissions, improve safety, and lower costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the requirements of this section $60,000,000 for fiscal year 2003 and $70,000,000 for fiscal year 2004.

Subtitle B—Renewable Energy

SEC. 1221. ENHANCED RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct balanced energy research, development, demonstration, and technology deployment programs to enhance the use of renewable energy.

(b) PROGRAM GOALS.—

(1) WIND POWER.—The goals of the wind power program shall be to develop, in partnership with industry, a variety of advanced wind turbine designs and manufacturing technologies that are cost-competitive with fossil-fuel generated electricity, with a focus on developing advanced low wind speed technologies that, by 2007, will enable the expanding utilization of widespread class 3 and 4 winds.

(2) PHOTOVOLTAICS.—The goal of the photovoltaic program shall be to develop, in partnership with industry, total photovoltaic systems with installed costs of $4000 per peak kilowatt by 2005 and $2000 per peak kilowatt by 2015.

(3) SOLAR THERMAL ELECTRIC SYSTEMS.—The goal of the solar thermal electric systems program shall be to develop, in partnership with industry, solar power technologies (including baseload solar power) that are competitive with fossil-fuel generated electricity by 2015, by combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles.

(4) BIOMASS-BASED POWER SYSTEMS.—The goal of the biomass program shall be to develop, in partnership with industry, integrated power-generating systems, advanced conversion, and feedstock technologies capable of producing electric power that is cost-competitive with fossil-fuel generated electricity by 2010, together with the production of fuels, chemicals, and other products under paragraph (6).

(5) GEOTHERMAL ENERGY.—The goal of the geothermal program shall be to develop, in partnership with industry, technologies and processes based on advanced hydrothermal systems and advanced heat and power systems, including geothermal heat pump technology, with a specific focus on—

(A) improving exploration and characterization technology to increase the probability of drilling successful wells from 20 percent to 40 percent by 2006;

(B) reducing the cost of drilling by 2008 to an average cost of $150 per foot; and

(C) developing enhanced geothermal systems technology with the potential to double the useable geothermal resource base.

(6) BIOFUELS.—The goal of the biofuels program shall be to develop, in partnership with industry, advanced biochemical and thermochemical conversion technologies capable of making liquid and gaseous fuels from cellulosic feedstocks, that are price-competitive with gasoline or diesel, in either internal combustion engines or fuel cell vehicles, by 2010.

(7) HYDROGEN-BASED ENERGY SYSTEMS.—The goals of the hydrogen program shall be to support research and development on technologies for production, storage, and use of hydrogen, including fuel cells and, specifically, fuel-cell vehicle development activities under section 1211.

(8) HYDROPOWER.—The goal of the hydropower program shall be to develop, in partnership with industry, a new generation of turbine technologies that are less damaging to fish and aquatic ecosystems.

(9) ELECTRIC ENERGY SYSTEMS AND STORAGE.—The goals of the electric energy and storage program shall be to develop, in partnership with industry—

(A) generators and transmission, distribution, and storage systems that combine high capacity with high efficiency;

(B) technologies to interconnect distributed energy resources with electric power systems, comply with any national interconnection standards, have a minimum 10–year useful life;

(C) advanced technologies to increase the average efficiency of electric transmission facilities in rural and remote areas, giving priority for demonstrations to advanced transmission technologies that are being or have been field tested;

(D) the use of new transmission technologies, including composite conductor materials, advanced protection devices, controllers, and other cost-effective methods and technologies;

(E) the use of superconducting materials in power delivery equipment such as transmission and distribution cables, transformers, and generators;

(F) energy management technologies for enterprises with aggregated loads and distributed generation, such as power parks;

(G) economic and system models to measure the costs and benefits of imporoved system performance;

(H) hybrid distributed energy systems to optimize two or more distributed or on-site generation technologies; and

(I) real-time transmission and distribution system control technologies that provide for continual exchange of information between generation, transmission, distribution, and end-user facilities.

(c) SPECIAL PROJECTS.—In carrying out this section, the Secretary shall demonstrate—

(1) the use of advanced wind power technology, biomass, geothermal energy systems, and other renewable energy technologies to assist in delivering electricity to rural and remote locations; and

(2) the combined use of wind power and coal gasification technologies.

(d) FINANCIAL ASSISTANCE TO RURAL AREAS.—In carrying out special projects under subsection (c), the Secretary may provide financial assistance to rural electric cooperatives and other rural entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—

(1) $500,000,000 for fiscal year 2003;

(2) $595,000,000 for fiscal year 2004;

(3) $683,000,000 for fiscal year 2005; and

(4) $733,000,000 for fiscal year 2006.

SEC. 1222. BIOENERGY PROGRAMS.

(a) PROGRAM DIRECTION.—The Secretary shall carry out research, development, demonstration, and technology development activities related to bioenergy, including programs under paragraphs (4) and (6) of section 1221(b).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) BIOPOWER ENERGY SYSTEMS.—From amounts authorized under section 1221(e), there are authorized to be appropriated to the Secretary for biopower energy systems—

(A) $60,300,000 for fiscal year 2003;

(B) $69,300,000 for fiscal year 2004;

(C) $79,600,000 for fiscal year 2005; and

(D) $86,250,000 for fiscal year 2006.

(2) BIOFUELS ENERGY SYSTEMS.—From amounts authorized under section 1221(e), there are authorized to be appropriated to the Secretary for biofuels energy systems—

(A) $57,500,000 for fiscal year 2003;

(B) $66,125,000 for fiscal year 2004;

(C) $76,000,000 for fiscal year 2005; and

(D) $81,400,000 for fiscal year 2006.

(3) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—The Secretary may use funds authorized under paragraph (1) or (2) for programs, projects, or activities that integrate applications for both biopower and biofuels, including cross-cutting research and development in feedstocks and economic analysis.

SEC. 1223. HYDROGEN RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the ''Hydrogen Future Act of 2002''.

(b) PURPOSES.—Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401(b)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) to direct the Secretary to develop a program of technology assessment, information transfer, and education in which Federal agencies, members of the transportation, energy, and other industries, and other entities may participate;

''(3) to develop methods of hydrogen production that minimize production of greenhouse gases, including developing—

''(A) efficient production from non-renewable resources; and

''(B) cost-effective production from renewable resources such as biomass, geothermal, wind, and solar energy; and

''(4) to foster the use of hydrogen as a major energy source, including developing the use of hydrogen in—

''(A) isolated villages, islands, and communities in which other energy sources are not available or are very expensive; and

''(B) foreign economic development, to avoid environmental damage from increased fossil fuel use.''.

(c) REPORT TO CONGRESS.—Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12402) is amended—

(1) in subsection (a), by striking ''January 1, 1999,'' and inserting ''1 year after the date of enactment of the Hydrogen Future Act of 2002, and biennially thereafter,'';

(2) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) an analysis of hydrogen-related activities throughout the United States Government to identify productive areas for increased intragovernmental collaboration;

''(2) recommendations of the Hydrogen Technical Advisory Panel established by section 108 for any improvements in the program that are needed, including recommendations for additional legislation; and

''(3) to the extent practicable, an analysis of State and local hydrogen-related activities.''; and

(3) by adding at the end the following:

''(c) COORDINATION PLAN.—The report under subsection (a) shall be based on a comprehensive coordination plan for hydrogen energy prepared by the Secretary in consultation with other Federal agencies.''.

(d) HYDROGEN RESEARCH AND DEVELOPMENT.—Section 104 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12403) is amended—

(1) in subsection (b)(1), by striking ''marketplace;'' and inserting ''marketplace, including foreign markets, particularly where an energy infrastructure is not well developed;'';

(2) in subsection (e), by striking ''this chapter'' and inserting ''this Act'';

(3) by striking subsection (g) and inserting the following:

''(g) COST SHARING.—

''(1) INABILITY TO FUND ENTIRE COST.—The Secretary shall not consider a proposal submitted by a person from industry unless the proposal contains a certification that—

''(A) reasonable efforts to obtain non-Federal funding in the amount necessary to pay 100 percent of the cost of the project have been made; and

''(B) non-Federal funding in that amount could not reasonably be obtained.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—The Secretary shall require a commitment from non-Federal sources of at least 25 percent of the cost of the project.

''(B) REDUCTION OR ELIMINATION.—The Secretary may reduce or eliminate the cost-sharing requirement under subparagraph (A) for the proposed research and development project, including for technical analyses, economic analyses, outreach activities, and educational programs, if the Secretary determines that reduction or elimination is necessary to achieve the objectives of this Act.

(4) in subsection (i), by striking ''this chapter'' and inserting ''this Act''.

(e) DEMONSTRATIONS.—Section 105 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12404) is amended by striking subsection (c) and inserting the following:

''(c) NON-FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section.

''(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.''.

(f) TECHNOLOGY TRANSFER.—Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12405) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking ''The Secretary shall conduct a program designed to accelerate wider application'' and inserting the following:

''(1) IN GENERAL.—The Secretary shall conduct a program designed to—

''(A) accelerate wider application''; and

(ii) by striking ''private sector'' and inserting ''private sector; and ''(B) accelerate wider application of hydrogen technologies in foreign countries to increase the global market for the technologies and foster global economic development without harmful environmental effects.''; and

(B) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(2) ADVICE AND ASSISTANCE.—The Secretary''; and

(2) in subsection (b)—

(A) in paragraph (2), by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting appropriately;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(C) by striking ''The Secretary, in'' and inserting the following:

''(1) IN GENERAL.—The Secretary, in'';

(D) by striking ''The information'' and inserting the following:

''(2) ACTIVITIES.—The information''; and

(E) in paragraph (1) (as designated by subparagraph (C))—

(i) in subparagraph (A) (as redesignated by subparagraph (B)), by striking ''an inventory'' and inserting ''an update of the inventory''; and

(ii) in subparagraph (B) (as redesignated by subparagraph (B)), by striking ''develop'' and all that follows through ''to improve'' and inserting ''develop with the National Aeronautics and Space Administration, the Department of Energy, other Federal agencies as appropriate, and industry, an information exchange program to improve''.

(g) TECHNICAL PANEL REVIEW.—

(1) IN GENERAL.—Section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12407) is amended—

(A) in subsection (b)—

(i) by striking ''(b) MEMBERSHIP.—The technical panel shall be appointed'' and inserting the following:

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The technical panel shall be comprised of not fewer than 9 nor more than 15 members appointed'';

(ii) by striking the second sentence and inserting the following:

''(2) TERMS.—

''(A) IN GENERAL.—The term of a member of the technical panel shall be not more than 3 years.

''(B) STAGGERED TERMS.—The Secretary may appoint members of the technical panel 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 technical panel.

''(C) REAPPOINTMENT.—A member of the technical panel whose term expires may be reappointed.''; and

(iii) by striking ''The technical panel shall have a chairman,'' and inserting the following:

''(3) CHAIRPERSON.—The technical panel shall have a chairperson,''; and

(B) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking ''the following items'';

(ii) in paragraph (1), by striking ''and'' at the end;

(iii) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(3) the plan developed by the interagency task force under section 202(b) of the Hydrogen Future Act of 1996.''.

(2) NEW APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary—

(A) shall review the membership composition of the Hydrogen Technical Advisory Panel; and

(B) may appoint new members consistent with the amendments made by subsection (a).

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 109 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12408) is amended—

(1) in paragraph (8), by striking ''and'';

(2) in paragraph (9), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(10) $65,000,000 for fiscal year 2003;

''(11) $70,000,000 for fiscal year 2004;

''(12) $75,000,000 for fiscal year 2005; and

''(13) $80,000,000 for fiscal year 2006.''.

(i) FUEL CELLS.—

(1) INTEGRATION OF FUEL CELLS WITH HYDROGEN PRODUCTION SYSTEMS.—Section 201 of the Hydrogen Future Act of 1996 is amended—

(A) in subsection (a)—

(i) by striking ''(a) Not later than 180 days after the date of enactment of this section, and subject'' and inserting ''(a) IN GENERAL.—Subject''; and (B) by striking ''with-'' and all that follows and inserting ''into Federal, State, and local government facilities for stationary and transportation applications.'';

(2) in subsection (b), by striking ''gas is'' and inserting ''basis'';

(3) in subsection (c)(2), by striking ''systems described in subsections (a)(1) and (a)(2)'' and inserting ''projects proposed''; and

(4) by striking subsection (d) and inserting the following:

''(d) NON-FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section.

''(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.''.

(2) COOPERATIVE AND COST-SHARING AGREEMENTS; INTEGRATION OF TECHNICAL INFORMATION.—Title II of the Hydrogen Future Act of 1996 (42 U.S.C. 12403 note; Public Law 104–271) is amended by striking section 202 and inserting the following:

''SEC. 202. INTERAGENCY TASK FORCE.

''(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this section, the Secretary shall establish an interagency task force led by a Deputy Assistant Secretary of the Department of Energy and comprised of representatives of—

''(1) the Office of Science and Technology Policy;

''(2) the Department of Transportation;

''(3) the Department of Defense;

''(4) the Department of Commerce (including the National Institute for Standards and Technology);

''(5) the Environmental Protection Agency;

''(6) the National Aeronautics and Space Administration; and

''(7) other agencies as appropriate.

''(b) DUTIES.—

''(1) IN GENERAL.—The task force shall develop a plan for carrying out this title.

''(2) FOCUS OF PLAN.—The plan shall focus on development and demonstration of integrated systems and components for—

''(A) hydrogen production, storage, and use in Federal, State, and local government buildings and vehicles;

''(B) hydrogen-based infrastructure for buses and other fleet transportation systems that include zero-emission vehicles; and

''(C) hydrogen-based distributed power generation, including the generation of combined heat, power, and hydrogen.

''SEC. 203. COOPERATIVE AND COST-SHARING AGREEMENTS.

''The Secretary shall enter into cooperative and cost-sharing agreements with Federal, State, and local agencies for participation by the agencies in demonstrations at facilities administered by the agencies, with the aim of integrating high efficiency hydrogen systems using fuel cells into the facilities to provide immediate benefits and promote a smooth transition to hydrogen as an energy source.

''SEC. 204. INTEGRATION AND DISSEMINATION OF TECHNICAL INFORMATION.

''The Secretary shall—

''(1) integrate all the technical information that becomes available as a result of development and demonstration projects under this title;

''(2) make the information available to all Federal and State agencies for dissemination to all interested persons; and

''(3) foster the exchange of generic, nonproprietary information and technology developed under this title among industry, academia, and Federal, State, and local governments, to help the United States economy attain the economic benefits of the information and technology.

''SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated, for activities under this title—

''(1) $25,000,000 for fiscal year 2003;

''(2) $30,000,000 for fiscal year 2004;

''(3) $35,000,000 for fiscal year 2005; and

''(4) $40,000,000 for fiscal year 2006.''.

Subtitle C—Fossil Energy

SEC. 1231. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to enhance fossil energy.

(b) PROGRAM GOALS.—

(1) CORE FOSSIL RESEARCH AND DEVELOPMENT.—The goals of the core fossil research and development program shall be to reduce emissions from fossil fuel use by developing technologies, including precombustion technologies, by 2015 with the capability of realizing—

(A) electricity generating efficiencies of 60 percent for coal and 75 percent for natural gas;

(B) combined heat and power thermal efficiencies of more than 85 percent;

(C) fuels utilization efficiency of 75 percent for the production of liquid transportation fuels from coal;

(D) near zero emissions of mercury and of emissions that form fine particles, smog, and acid rain;

(E) reduction of carbon dioxide emissions by at least 40 percent through efficiency improvements and 100 percent with sequestration; and

(F) improved reliability, efficiency, reductions of air pollutant emissions, or reductions in solid waste disposal requirements.

(2) OFFSHORE OIL AND NATURAL GAS RESOURCES.—The goal of the offshore oil and natural gas resources program shall be to develop technologies to—

(A) extract methane hydrates in coastal waters of the United States, and

(B) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico.

(3) ONSHORE OIL AND NATURAL GAS RESOURCES.—The goal of the onshore oil and natural gas resources program shall be to advance the science and technology available to domestic onshore petroleum producers, particularly independent operators, through—

(A) advances in technology for exploration and production of domestic petroleum resources, particularly those not accessible with current technology;

(B) improvement in the ability to extract hydrocarbons from known reservoirs and classes of reservoirs; and

(C) development of technologies and practices that reduce the threat to the environment from petroleum exploration and production and decrease the cost of effective environmental compliance.

(4) TRANSPORTATION FUELS.—The goals of the transportation fuels program shall be to increase the price elasticity of oil supply and demand by focusing research on—

(A) reducing the cost of producing transportation fuels from coal and natural gas; and

(B) indirect liquefaction of coal and biomass.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this section—

(1) $485,000,000 for fiscal year 2003;

(2) $508,000,000 for fiscal year 2004;

(3) $532,000,000 for fiscal year 2005; and

(4) $558,000,000 for fiscal year 2006.

(2) LIMITS ON USE OF FUNDS.—

(A) None of the funds authorized in paragraph (1) may be used for—

(i) Fossil energy environmental restoration;

(ii) Import/export authorization;

(iii) Program direction; or

(iv) General plant projects.

(B) COAL-BASED PROJECTS.—The coal-based projects funded under this section shall be consistent with the goals in subsection (b). The program shall emphasize carbon capture and sequestration technologies and gasification technologies, including gasification combined cycle, gasification fuel cells, gasification co-production, hybrid gasification/combustion, or other technology with the potential to address the goals in subparagraphs (D) or (E) of subsection (b)(1).

SEC. 1232. POWER PLANT IMPROVEMENT INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to demonstrate commercial applications of advanced lignite and coal-based technologies applicable to new or existing power plants (including co-production plants) that advance the efficiency, environmental performance, and cost-competitiveness substantially beyond technologies that are in operation or have been demonstrated by the date of enactment of this subtitle.

(b) TECHNICAL MILESTONES.—

(1) IN GENERAL.—The Secretary shall set technical milestones specifying efficiency and emissions levels that projects shall be designed to achieve. The milestones shall become more restrictive over the life of the program.

(2) 2010 EFFICIENCY MILESTONES.—The milestones shall be designed to achieve by 2010 interim thermal efficiency of—

(A) 45 percent for coal of more than 9,000 Btu;

(B) 44 percent for coal of 7,000 to 9,000 Btu; and

(C) 42 percent for coal of less than 7,000 Btu.

(3) 2020 EFFICIENCY MILESTONES.—The milestones shall be designed to achieve by 2020 thermal efficiency of—

(A) 60 percent for coal of more than 9,000 Btu;

(B) 59 percent for coal of 7,000 to 9,000 Btu; and

(C) 57 percent for coal of less than 7,000 Btu.

(4) EMISSIONS MILESTONES.—The milestones shall include near zero emissions of mercury and greenhouse gases and of emissions that form fine particles, smog, and acid rain.

(4) REGIONAL AND QUALITY DIFFERENCES.—The Secretary may consider regional and quality differences in developing the efficiency milestones.

(c) PROJECT CRITERIA.—The demonstration activities proposed to be conducted at a new or existing coal-based electric generation unit having a nameplate rating of not less than 100 megawatts, excluding a co-production plant, shall include at least one of the following—

(1) a means of recycling or reusing a significant portion of coal combustion wastes produced by coal-based generating units, excluding practices that are commercially available by the date of enactment of this subtitle;

(2) a means of capture and sequestering emissions, including greenhouse gases, in a manner that is more effective and substantially below the cost of technologies that are in operation or that have been demonstrated by the date of enactment of this subtitle;

(3) a means of controlling sulfur dioxide and nitrogen oxide or mercury in a manner that improves environmental performance beyond technologies that are in operation or that have been demonstrated by the date of enactment of this subtitle, and

(A) in the case of an existing unit, achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(i) 7 percent for coal of more than 9,000 Btu;

(ii) 6 percent for coal of 7,000 to 9,000 Btu; or

(iii) 4 percent for coal of less than 7,000 Btu; or

(B) in the case of a new unit, achieve the efficiency milestones set for in subsection (b) compared to the efficiency of a typical unit as operated on the date of enactment of this subtitle, before any retrofit, repowering, replacement, or installation.

(d) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and interested entities (including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers), shall conduct an assessment that identifies performance criteria that would be necessary for coal-based technologies to meet, to enable future reliance on coal in an environmentally sustainable manner for electricity generation, use as a chemical feedstock, and use as a transportation fuel.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out activities under this section $200,000,000 for each of fiscal years 2003 through 2011.

(2) LIMITATION ON FUNDING OF PROJECTS.—Eighty percent of the funding under this section shall be limited to—

(A) carbon capture and sequestration technologies; or

(B) gasification technologies, including gasification combined cycle, gasification fuel cells, gasification co-production, or hybrid gasification/combustion., or

(C) or other technology either by itself or in conjunction with other technologies has the potential to achieve near zero emissions.

SEC. 1233. RESEARCH AND DEVELOPMENT FOR ADVANCED SAFE AND EFFICIENT COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary of Energy shall establish a cooperative research partnership involving appropriate Federal agencies, coal producers, including associations, equipment manufacturers, universities with mining engineering departments, and other relevant entities to—

(1) develop mining research priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) establish a process for conducting joint industry-government research and development; and

(3) expand mining research capabilities at institutions of higher education.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out activities under this section, $12,000,000 in fiscal year 2003 and $15,000,000 in fiscal year 2004.

(2) LIMIT ON USE OF FUNDS.—Not less than 20 percent of any funds appropriated in a

given fiscal year under this subsection shall be dedicated to research carried out at institutions of higher education.

SEC. 1234. ULTRA-DEEPWATER AND UNCONVENTIONAL RESOURCE EXPLORATION AND PRODUCTION TECHNOLOGIES.

(a) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Ultra-Deepwater and Unconventional Resource Technology Advisory Committee established under subsection (c).

(2) AWARD.—The term ''award'' means a cooperative agreement, contract, award or other types of agreement as appropriate.

(3) DEEPWATER.—The term ''deepwater'' means a water depth that is greater than 200 but less than 1,500 meters.

(4) ELIGIBLE AWARD RECIPIENT.—The term ''eligible award recipient'' includes—

(A) a research institution;

(B) an institution of higher education;

(C) a corporation; and

(D) a managing consortium formed among entities described in subparagraphs (A) through (C).

(5) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(6) MANAGING CONSORTIUM.—The term ''managing consortium'' means an entity that—

(A) exists as of the date of enactment of this section;

(B)(i) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) is exempt from taxation under section 501(a) of that Code;

(C) is experienced in planning and managing programs in natural gas or other petroleum exploration and production research, development, and demonstration; and

(D) has demonstrated capabilities and experience in representing the views and priorities of industry, institutions of higher education and other research institutions in formulating comprehensive research and development plans and programs.

(7) PROGRAM.—The term ''program'' means the program of research, development, and demonstration established under subsection (b)(1)(A).

(8) ULTRA-DEEPWATER.—The term ''ultra-deepwater'' means a water depth that is equal to or greater than 1,500 meters.

(9) ULTRA-DEEPWATER ARCHITECTURE.—The term ''ultra-deepwater architecture'' means the integration of technologies to explore and produce natural gas or petroleum products located at ultra-deepwater depths.

(10) ULTRA-DEEPWATER RESOURCE.—The term ''ultra-deepwater resource'' means natural gas or any other petroleum resource (including methane hydrate) located in an ultra-deepwater area.

(11) UNCONVENTIONAL RESOURCE.—The term ''unconventional resource'' means natural gas or any other petroleum resource located in a formation on physically or economically inaccessible land currently available for lease for purposes of natural gas or other petroleum exploration or production.

(b) ULTRA-DEEPWATER AND UNCONVENTIONAL EXPLORATION AND PRODUCTION PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a program of research into, and development and demonstration of, ultra-deepwater resource and unconventional resource exploration and production technologies.

(B) LOCATION; IMPLEMENTATION.—The program under this subsection shall be carried out—

(i) in areas on the outer Continental Shelf that, as of the date of enactment of this section, are available for leasing; and

(ii) on unconventional resources.

(2) COMPONENTS.—The program shall include one or more programs for long-term research into—

(A) new deepwater ultra-deepwater resource and unconventional resource exploration and production technologies; or

(B) environmental mitigation technologies for production of ultra-deepwater resource and unconventional resource.

(c) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this section, the Secretary shall establish an advisory committee to be known as the ''Ultra-Deepwater and Unconventional Resource Technology Advisory Committee''.

(2) MEMBERSHIP.—

(A) COMPOSITION.—Subject to subparagraph (B), the advisory committee shall be composed of 7 members appointed by the Secretary that—

(i) have extensive operational knowledge of and experience in the natural gas and other petroleum exploration and production industry; and

(ii) are not Federal employees or employees of contractors to a federal agency.

(B) EXPERTISE.—Of the members of the advisory committee appointed under subparagraph (A)—

(i) at least 4 members shall have extensive knowledge of ultra-deepwater resource exploration and production technologies;

(ii) at least 3 members shall have extensive knowledge of unconventional resource exploration and production technologies.

(3) DUTIES.—The advisory committee shall advise the Secretary in the implementation of this section.

(4) COMPENSATION.—A member of the advisory committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) AWARDS.—

(1) TYPES OF AWARDS.—

(A) ULTRA-DEEPWATER RESOURCES.—

(i) IN GENERAL.—The Secretary shall make awards for research into, and development and demonstration of, ultra-deepwater resource exploration and production technologies—

(I) to maximize the value of the ultra-deepwater resources of the United States;

(II) to increase the supply of ultra-deepwater resources by lowering the cost and improving the efficiency of exploration and production of such resources; and

(III) to improve safety and minimize negative environmental impacts of that exploration and production.

(ii) ULTRA-DEEPWATER ARCHITECTURE.—In furtherance of the purposes described in clause (i), the Secretary shall, where appropriate, solicit proposals from a managing consortium to develop and demonstrate next-generation architecture for ultra-deepwater resource production.

(B) UNCONVENTIONAL RESOURCES.—The Secretary shall make awards—

(i) to carry out research into, and development and demonstration of, technologies to maximize the value of unconventional resources; and

(ii) to develop technologies to simultaneously—

(I) increase the supply of unconventional resources by lowering the cost and improving the efficiency of exploration and production of unconventional resources; and

(II) improve safety and minimize negative environmental impacts of that exploration and production.

(2) CONDITIONS.—An award made under this subsection shall be subject to the following conditions:

(A) MULTIPLE ENTITIES.—If an award recipient is composed of more than one eligible organization, the recipient shall provide a signed contract, agreed to by all eligible organizations comprising the award recipient, that defines, in a manner that is consistent with all applicable law in effect as of the date of the contract, all rights to intellectual property for—

(i) technology in existence as of that date; and

(ii) future inventions conceived and developed using funds provided under the award.

(B) COMPONENTS OF APPLICATION.—An application for an award for a demonstration project shall describe with specificity any intended commercial applications of the technology to be demonstrated.

(C) COST SHARING.—Non-federal cost sharing shall be in accordance with section 1403.

(e) PLAN AND FUNDING.—

(1) IN GENERAL.—The Secretary, and where appropriate, a managing consortium under subsection (d)(1)(A)(ii), shall formulate annual operating and performance objectives, develop multi-year technology roadmaps, and establish research and development priorities for the funding of activities under this section which will serve as guidelines for making awards including cost-matching objectives.

(2) INDUSTRY INPUT.—In carrying out this program, the Secretary shall promote maximum industry input through the use of managing consortia or other organizations in planning and executing the research areas and conducting workshops or reviews to ensure that this program focuses on industry problems and needs.

(f) AUDITING.—

(1) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds authorized by this section, provided through a managing consortium, are expended in a manner consistent with the purposes of this section.

(2) REPORTS.—The auditor retained under paragraph (1) shall submit to the Secretary, and the Secretary shall transmit to the appropriate congressional committees, an annual report that describes—

(A) the findings of the auditor under paragraph (1); and

(B) a plan under which the Secretary may remedy any deficiencies identified by the auditor.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

(h) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on September 30, 2009.

(i) SAVINGS PROVISION.—Nothing in this section is intended to displace, duplicate or diminish any previously authorized research activities of the Department of Energy.

SEC. 1235. RESEARCH AND DEVELOPMENT FOR NEW NATURAL GAS TRANSPORTATION TECHNOLOGIES.

The Secretary of Energy shall conduct a comprehensive five-year program for research, development and demonstration to improve the reliability, efficiency, safety and integrity of the natural gas transportation and distribution infrastructure and for distributed energy resources (including microturbines, fuel cells, advanced engine-generators, gas turbines, reciprocating engines, hybrid power generation systems, and all ancillary equipment for dispatch, control and maintenance).

SEC. 1236. AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF ARCTIC ENERGY.

There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal

Year 2001 (P.L. 106–398) such sums as may be necessary, but not to exceed $25,000,000 for each of fiscal years 2003 through 2011.

Subtitle D—Nuclear Energy

SEC. 1241. ENHANCED NUCLEAR ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct an energy research, development, demonstration, and technology deployment program to enhance nuclear energy.

(b) PROGRAM GOALS.—The program shall—

(1) support research related to existing United States nuclear power reactors to extend their lifetimes and increase their reliability while optimizing their current operations for greater efficiencies;

(2) examine advanced proliferation-resistant and passively safe reactor designs, new reactor designs with higher efficiency, lower cost, and improved safety, proliferation-resistant and high burn-up nuclear fuels, minimization of generation of radioactive materials, improved nuclear waste management technologies, and improved instrumentation science;

(3) attract new students and faculty to the nuclear sciences and nuclear engineering and related fields (including health physics and nuclear and radiochemistry) through—

(A) university-based fundamental research for existing faculty and new junior faculty;

(B) support for the re-licensing of existing training reactors at universities in conjunction with industry; and

(C) completing the conversion of existing training reactors with proliferation resistant fuels that are low enriched and to adapt those reactors to new investigative uses;

(4) maintain a national capability and infrastructure to produce medical isotopes and ensure a well trained cadre of nuclear medicine specialists in partnership with industry;

(5) ensure that our nation has adequate capability to power future satellite and space missions; and

(6) maintain, where appropriate through a prioritization process, a balanced research infrastructure so that future research programs can use these facilities.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) CORE NUCLEAR RESEARCH PROGRAMS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under subsection (b)(1) through (3)—

(A) $100,000,000 for fiscal year 2003;
(B) $110,000,000 for fiscal year 2004;
(C) $120,000,000 for fiscal year 2005; and
(D) $130,000,000 for fiscal year 2006.

(2) SUPPORTING NUCLEAR ACTIVITIES.—There are authorized to be appropriated to the Secretary for carrying out activities under subsection (b)(4) through (6), as well as nuclear facilities management and program direction—

(A) $200,000,000 for fiscal year 2003;
(B) $202,000,000 for fiscal year 2004;
(C) $207,000,000 for fiscal year 2005; and
(D) $212,000,000 for fiscal year 2006.

SEC. 1242. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) ESTABLISHMENT.—The Secretary shall support a program to maintain the nation's human resource investment 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—

(1) develop a graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) support fundamental nuclear sciences and engineering research through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research between industry, national laboratories and universities through the Nuclear Energy Research Initiative; and

(5) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Activities under this section may include:

(1) converting research reactors to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among universities;

(2) providing technical assistance, in collaboration with the U.S. nuclear industry, in re-licensing and upgrading training reactors as part of a student training program;

(3) providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.—The Secretary shall develop—

(1) a sabbatical fellowship program for university professors to spend extended periods of time at National Laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments. The Secretary may provide for fellowships for students to spend time at National Laboratories in the area of nuclear science with a member of the Laboratory staff acting as a mentor.

(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a university research reactor used in the research project, on a cost-shared basis with the university.

(f) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c)(1), the following amounts are authorized for activities under this section—

(1) $33,000,000 for fiscal year 2003;
(2) $37,900,000 for fiscal year 2004;
(3) $43,600,000 for fiscal year 2005; and
(4) $50,100,000 for fiscal year 2006.

SEC. 1243. NUCLEAR ENERGY RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Research Initiative for grants for research relating to nuclear energy.

(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.

SEC. 1244. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Plant Optimization Program for grants to improve nuclear energy plant reliability, availability, and productivity. Notwithstanding section 1403, the program shall require industry cost-sharing of at least 50 percent and be subject to annual review by the Nuclear Energy Research Advisory Committee of the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.

SEC. 1245. NUCLEAR ENERGY TECHNOLOGY DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Technology Development Program to develop a technology roadmap to design and develop new nuclear energy powerplants in the United States.

(b) GENERATION IV REACTOR STUDY.—The Secretary shall, as part of the program under subsection (a), also conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial deployment. The study shall examine advanced proliferation-resistant and passively safe reactor designs, new reactor designs with higher efficiency, lower cost and improved safety, proliferation-resistant and high burn-up fuels, minimization of generation of radioactive materials, improved nuclear waste management technologies, and improved instrumentation science. Not later than December 31, 2002, the Secretary shall submit to Congress a report describing the results of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized to be appropriated under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.

Subtitle E—Fundamental Energy Science

SEC. 1251. ENHANCED PROGRAMS IN FUNDAMENTAL ENERGY SCIENCE.

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall—

(1) conduct a comprehensive program of fundamental research, including research on chemical sciences, physics, materials sciences, biological and environmental sciences, geosciences, engineering sciences, plasma sciences, mathematics, and advanced scientific computing;

(2) maintain, upgrade and expand the scientific user facilities maintained by the Office of Science and ensure that they are an integral part of the departmental mission for exploring the frontiers of fundamental science;

(3) maintain a leading-edge research capability in the energy-related aspects of nanoscience and nanotechnology, advanced scientific computing and genome research; and

(4) ensure that its fundamental science programs, where appropriate, help inform the applied research and development programs of the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—

(1) $3,785,000,000 for fiscal year 2003;
(2) $4,153,000,000 for fiscal year 2004;
(3) $4,586,000,000 for fiscal year 2005; and
(4) $5,000,000,000 for fiscal year 2006.

SEC. 1252. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research and development in nanoscience and nanoengineering consistent with the Department's statutory authorities related to research and development. The program shall include efforts to further the understanding of the chemistry, physics, materials science and engineering of phenomena on the scale of 1 to 100 nanometers.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators;

(2) pursuant to subsection (c), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research and development in nanoscience and nanoengineering;

(3) support technology transfer activities to benefit industry and other users of nanoscience and nanoengineering; and

(4) coordinate research and development activities with industry and other federal agencies.

(c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—

(1) AUTHORIZATION.—From amounts authorized to be appropriated under section 1251(b), the amounts specified under subsection (d)(2) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanoengineering.

(2) PROJECTS.—Projects under paragraph (1) may include the measurement of properties at the scale of 1 to 100 nanometers, manipulation at such scales, and the integration of technologies 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 science.

(4) COLLABORATION.—The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. At least one facility under this subsection shall have a specific mission of technology transfer to other institutions and to industry.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) TOTAL AUTHORIZATION.—From amounts authorized to be appropriated under section 1251(b), the following amounts are authorized for activities under this section—

(A) $270,000,000 for fiscal year 2003;
(B) $290,000,000 for fiscal year 2004;
(C) $310,000,000 for fiscal year 2005; and
(D) $330,000,000 for fiscal year 2006.

(2) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—Of the amounts under paragraph (1), the following amounts are authorized to carry out subsection (c)—

(A) $135,000,000 for fiscal year 2003;
(B) $150,000,000 for fiscal year 2004;
(C) $120,000,000 for fiscal year 2005; and
(D) $100,000,000 for fiscal year 2006.

SEC. 1253. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenge computationally 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,

(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, and

(4) maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address DOE missions are available; explore new computing approaches and technologies that promise to advance scientific computing.

(c) HIGH-PERFORMANCE COMPUTING ACT PROGRAM.—Section 203(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(a)) is amended—

(1) in paragraph (3), by striking ''and'';

(2) in paragraph (4), by striking the period and inserting ''; and''; and

(3) by adding after paragraph (4) the following: ''(5) conduct an integrated program of research, development, and provision of facilities to develop and deploy to scientific and technical users the high-performance computing and collaboration tools needed to fulfill the statutory missions of the Department of Energy in conducting basic and applied energy research.''.

(d) COORDINATION WITH THE DOE NATIONAL NUCLEAR SECURITY AGENCY ACCELERATED STRATEGIC COMPUTING INITIATIVE AND OTHER NATIONAL COMPUTING PROGRAMS.—The Secretary shall ensure that this program, to the extent feasible, is integrated and consistent with—

(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Agency; and

(2) other national efforts related to advanced scientific computing for science and engineering.

(e) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), the following amounts are authorized for activities under this section—

(1) $285,000,000 for fiscal year 2003;
(2) $300,000,000 for fiscal year 2004;
(3) $310,000,000 for fiscal year 2005; and
(4) $320,000,000 for fiscal year 2006.

SEC. 1254. FUSION ENERGY SCIENCES PROGRAM AND PLANNING.

(a) OVERALL PLAN FOR FUSION ENERGY SCIENCES PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this subtitle, the Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, shall develop and transmit to the Congress a plan to ensure a strong scientific base for the Fusion Energy Sciences Program within the Office of Science and to enable the experiments described in subsections (b) and (c).

(2) OBJECTIVES OF PLAN.—The plan under this subsection shall include as its objectives—

(1) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(2) to ensure a strengthened fusion science theory and computational base;

(3) to encourage and ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;

(4) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(5) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in subsections (b) and (c); and

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development.

(b) PLAN FOR UNITED STATES FUSION EXPERIMENT.—

(1) IN GENERAL.—The Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for construction in the United States of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences and shall transmit the plan and the review to the Congress by July 1, 2004.

(2) REQUIREMENTS OF PLAN.—The plan described in paragraph (1) shall—

(A) address key burning plasma physics issues; and

(B) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) PLAN FOR PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—In addition to the plan described in subsection (b), the Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost-effective relative to the cost and scientific benefits of a domestic experiment described in subsection (b). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b)(2), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academy of Sciences of a plan developed under this subsection, and shall transmit the plan and the review to the Congress no later than July 1, 2004.

(d) AUTHORIZATION FOR RESEARCH AND DEVELOPMENT.—The Secretary, through the Office of Science, may conduct any research and development necessary to fully develop the plans described in this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b) for fiscal year 2003, $335,000,000 are authorized for fiscal year 2003 for activities under this section and for activities of the Fusion Energy Sciences Program.

Subtitle F—Energy, Safety, and Environmental Protection

SEC. 1261. CRITICAL ENERGY INFRASTRUCTURE PROTECTION RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall carry out a research, development, demonstration and technology deployment program, in partnership with industry, on critical energy infrastructure protection, consistent with the roles and missions outlined for the Secretary in Presidential Decision Directive 63, entitled ''Critical Infrastructure Protection''. The program shall have the following goals:

(1) Increase the understanding of physical and information system disruptions to the energy infrastructure that could result in cascading or widespread regional outages.

(2) Develop energy infrastructure assurance ''best practices'' through vulnerability and risk assessments.

(3) Protect against, mitigate the effect of, and improve the ability to recover from disruptive incidents within the energy infrastructure.

(b) PROGRAM SCOPE.—The program under subsection (a) shall include research, development, deployment, technology demonstration for—

(1) analysis of energy infrastructure interdependencies to quantify the impacts of system vulnerabilities in relation to each other;

(2) probabilistic risk assessment of the energy infrastructure to account for unconventional and terrorist threats;

(3) incident tracking and trend analysis tools to assess the severity of threats and reported incidents to the energy infrastructure; and

(4) integrated multi-sensor, warning and mitigation technologies to detect, integrate, and localize events affecting the energy infrastructure including real time control to permit the reconfiguration of energy delivery systems.

(c) REGIONAL COORDINATION.—The program under this section shall cooperate with Departmental activities to promote regional coordination under section 102 of this Act, to ensure that the technologies and assessments developed by the program are transferred in a timely manner to State and local authorities, and to the energy industries.

(d) COORDINATION WITH INDUSTRY RESEARCH ORGANIZATIONS.—The Secretary may enter into grants, contracts, and cooperative agreements with industry research organizations to facilitate industry participation in research under this section and to fulfill applicable cost-sharing requirements.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section—

(1) $25,000,000 for fiscal year 2003;
(2) $26,000,000 for fiscal year 2004;
(3) $27,000,000 for fiscal year 2005; and
(4) $28,000,000 for fiscal year 2006.

(f) CRITICAL ENERGY INFRASTRUCTURE FACILITY DEFINED.—For purposes of this section, the term ''critical energy infrastructure facility'' means a physical or cyber-based system or service for the generation, transmission or distribution of electrical energy, or the production, refining, transportation, or storage of petroleum, natural gas, or petroleum product, the incapacity or destruction of which would have a debilitating impact on the defense or economic security of the United States. The term shall not include a facility that is licensed by the Nuclear Regulatory Commission under section 103 or 104b of the Atomic Energy Act of 1954 (42 U.S.C. 2133 and 2134(b)).

SEC. 1262. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program shall include materials inspection techniques, risk assessment methodology, and information systems surety.

(b) PURPOSE.—The purpose of the cooperative research program shall be to promote research and development to—

(1) ensure long-term safety, reliability and service life for existing pipelines;

(2) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(3) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(4) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(5) develop improved materials and coatings for use in pipelines;

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

(7) identify underground environments that might lead to shortened service life;

(8) enhance safety in pipeline siting and land use;

(9) minimize the environmental impact of pipelines;

(10) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(11) provide risk assessment tools for optimizing risk mitigation strategies; and

(12) provide highly secure information systems for controlling the operation of pipelines.

(c) AREAS.—In carrying out this section, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil, and petroleum product pipelines for—

(1) early crack, defect, and damage detection, including real-time damage monitoring;

(2) automated internal pipeline inspection sensor systems;

(3) land use guidance and set back management along pipeline rights-of-way for communities;

(4) internal corrosion control;

(5) corrosion-resistant coatings;

(6) improved cathodic protection;

(7) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(8) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(9) longer life, high strength, non-corrosive pipeline materials;

(10) assessing the remaining strength of existing pipes;

(11) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative;

(12) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(13) any other areas necessary to ensuring the public safety and protecting the environment.

(d) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this section, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a five-year program plan to guide activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(e) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the five-year plan provided for in subsection (d) is implemented as intended by this section. In carrying out the research, development, and demonstration activities under this section, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(f) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Energy, the natural laboratories, universities, and any other research organizations, including industry research organizations.

(g) PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the research and development program plan under subsection (d). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under this section.

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

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to the Secretary of Transportation for carrying out this section $3,000,000, to be derived from user fees under section 60301 of title 49, United States Code, for each of the fiscal years 2003 through 2006.

(2) Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention and mitigation of oil spills under this section for each of the fiscal years 2003 through 2006.

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out this section such sums as may be necessary for each of the fiscal years 2003 through 2006.

SEC. 1263. RESEARCH AND DEMONSTRATION FOR REMEDIATION OF GROUNDWATER FROM ENERGY ACTIVITIES.

(a) IN GENERAL.—The Secretary shall carry out a research, development, demonstration, and technology deployment program to improve methods for environmental restoration of groundwater contaminated by energy activities, including oil and gas production, surface and underground mining of coal, and in-situ extraction of energy resources.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

TITLE XIII—CLIMATE CHANGE-RELATED RESEARCH AND DEVELOPMENT

Subtitle A—Department of Energy Programs

SEC. 1301. PROGRAM GOALS.

The goals of the research, development, demonstration, and technology deployment programs under this subtitle shall be to—

(1) provide a sound scientific understanding of the human and natural forces that influence the Earth's climate system, particularly those forces related to energy production and use;

(2) help mitigate climate change from human activities related to energy production and use; and

(3) reduce, avoid, or sequester emissions of greenhouse gases in furtherance of the goals of the United National Framework Convention on Climate Change, done at New York on May 9, 1992, in a manner that does not result in serious harm to the U.S. economy.

SEC. 1302. DEPARTMENT OF ENERGY GLOBAL CHANGE SCIENCE RESEARCH.

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.

(b) PROGRAM ELEMENTS.—

(1) CLIMATE MODELING.—The Secretary shall—

(A) conduct observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere;

(B) determine the factors responsible for the Earth's radiation balance and incorporate improved understanding of such factors in climate models;

(C) improve the treatment of aerosols and clouds in climate models;

(D) reduce the uncertainty in decade-to-century model-based projections of climate change; and

(E) increase the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy and climate change.

(2) CARBON CYCLE.—The Secretary shall—

(A) carry out field research and modeling activities—

(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or

(ii) to evaluate the potential of proposed methods of carbon sequestration;

(B) develop and test carbon cycle models; and

(C) acquire data and develop and test models to simulate and predict the transport, transformation, and fate of energy-related emissions in the atmosphere.

(3) ECOLOGICAL PROCESSES.—The Secretary shall carry out long-term experiments of the response of intact terrestrial ecosystems to—

(A) alterations in climate and atmospheric composition; or

(B) land-use changes that affect ecosystem extent and function.

(4) INTEGRATED ASSESSMENT.—The Secretary shall develop and improve methods and tools for integrated analyses of the climate change system from emissions of aerosols and greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems, with emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1440(c), there are authorized to be appropriated to the Secretary for carrying out activities under this section—

(1) $150,000,000 for fiscal year 2003;

(2) $175,000,000 for fiscal year 2004;

(3) $200,000,000 for fiscal year 2005; and

(4) $230,000,000 for fiscal year 2006.

(d) LIMITATION ON FUNDS.—Funds authorized to be appropriated under this section shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.

SEC. 1303. AMENDMENTS TO THE FEDERAL NONNUCLEAR RESEARCH AND DEVELOPMENT ACT OF 1974.

Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3) by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following:

''(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—

''(A) reduce or avoid anthropogenic emissions of greenhouse gases;

''(B) remove and sequester greenhouse gases from emissions streams; and

''(C) remove and sequester greenhouse gases from the atmosphere.''; and

(2) in subsection (b)—

(A) in paragraph (2), by striking ''subsection (a)(1) through (3)'' and inserting ''paragraphs (1) through (4) of subsection (a)''; and

(B) in paragraph (3)—

(i) in subparagraph (R), by striking ''and'' at the end;

(ii) in subparagraph (S), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—

''(i) renewable energy systems;

''(ii) advanced fossil energy technology;

''(iii) advanced nuclear power plant design;

''(iv) fuel cell technology for residential, industrial and transportation applications;

''(v) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon;

''(vi) efficient electrical generation, transmission and distribution technologies; and

''(vii) efficient end use energy technologies.''.

Subtitle B—Department of Agriculture Programs

SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH.

(a) BASIC RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out research in the areas of soil science that promote understanding of—

(A) the net sequestration of organic carbon in soil; and

(B) net emissions of other greenhouse gases from agriculture.

(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing soil carbon fluxes (losses and gains) and net emissions of methane and nitrous oxide from cultivation and animal management activities.

(3) COOPERATIVE STATE RESEARCH EXTENSION AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research Extension and Education Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) in land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Education, and Extension Service shall consult with the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(b) APPLIED RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out applied research in the areas of soil science, agronomy, agricultural economics and other agricultural sciences to—

(A) promote understanding of—

(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soil and net emissions of other greenhouse gases;

(ii) how changes in soil carbon pools are cost-effectively measured, monitored, and verified; and

(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and (C) evaluate leakage and performance issues.

(2) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—

(A) draw on existing technologies and methods; and

(B) strive to provide methodologies that are accessible to a nontechnical audience.

(3) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

(4) NATURAL RESOURCES CONSERVATION SERVICE.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall collaborate with other Federal agencies, including the National Institute of Standards and Technology, in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

(A) changes in soil carbon content in agricultural soils, plants, and trees; and

(B) net emissions of other greenhouse gases.

(5) COOPERATIVE STATE RESEARCH EXTENSION AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research Extension and Education Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Education, and Extension Service shall consult with the National Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(c) RESEARCH CONSORTIA.—

(1) IN GENERAL.—The Secretary of Agriculture may designate not more than 2 research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic, research under subsection (a) and applied research under subsection (b).

(2) SELECTION.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Education, and Extension Service.

(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—

(A) land grant colleges and universities;

(B) private research institutions;

(C) State geological surveys;

(D) agencies of the Department of Agriculture;

(E) research centers of the National Aeronautics and Space Administration and the Department of Energy;

(F) other Federal agencies;

(G) representatives of agricultural businesses and organizations with demonstrated expertise in these areas; and

(H) representatives of the private sector with demonstrated expertise in these areas.

(4) RESERVATION OF FUNDING.—If the Secretary of Agriculture designates 1 or 2 consortia, the Secretary of Agriculture shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

(d) STANDARDS OF PRECISION.—

(1) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Agriculture, acting through the Agricultural Research Service and in consultation with the Natural Resources Conservation Service, shall convene a conference of key scientific experts on carbon sequestration and measurement techniques from various sectors (including the government, academic, and private sectors) to—

(A) discuss benchmark standards of precision for measuring soil carbon content and net emissions of other greenhouse gases;

(B) designate packages of measurement techniques and modeling approaches to achieve a level of precision agreed on by the participants in the conference; and

(C) evaluate results of analyses on baseline, permanence, and leakage issues.

(2) DEVELOPMENT OF BENCHMARK STANDARDS.—

(A) IN GENERAL.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on—

(i) information from the conference under paragraph (1);

(ii) research conducted under this section; and

(iii) other information available to the Secretary.

(B) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall provide an opportunity for the public to comment on benchmark standards developed under subparagraph (A).

(3) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the conference.

(e) 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 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Education, and Extension Service.

SEC. 1312. CARBON SEQUESTRATION DEMONSTRATION PROJECTS AND OUTREACH.

(a) DEMONSTRATION PROJECTS.—

(1) DEVELOPMENT OF MONITORING PROGRAMS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service and in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly, programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

(B) BENCHMARK LEVELS OF PRECISION.—The programs developed under subparagraph (A) shall strive to achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects use the monitoring programs developed under paragraph (1) to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and

(ii) net changes in emissions of other greenhouse gases.

(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and permanence of sequestration.

(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in cooperation with interested local ,jurisdictions and State agricultural and conservation organizations.

(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1331(b) until benchmark measurement and assessment standards are established under section 1331(d).

(b) OUTREACH.—

(1) IN GENERAL.—The Cooperative State Research Extension and Education Service shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouse gases.

(2) PROJECT RESULTS.—The Cooperative State Research Extension and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—

(A) the results of demonstration projects under subsection (a)(2) in the State; and

(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.

(3) POLICY OUTREACH.—On a periodic basis, the Cooperative State Research Extension and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).

Subtitle C—Clean Energy Technology Exports Program

SEC. 1321. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries, countries in transition, and other partner countries—

(A) emits substantially lower levels of pollutants or greenhouse gases; and

(B) may generate substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term ''interagency working group'' means the Interagency Working Group on Clean Energy Technology Exports established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the U.S. Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Exports. The interagency working group will focus on opening and expanding energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions, including through technology transfer programs under the Framework Convention on Climate Change, other international agreements, and relevant Federal efforts.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other federal agencies as deemed appropriate by all three agency heads under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology;

(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries, countries in transition, and other partner countries, including—

(i) energy-sector reform;

(ii) creation of open, transparent, and competitive markets for energy technologies;

(iii) availability of trained personnel to deploy and maintain the technology; and (iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;

(C) examine relevant trade, tax, international, and other policy issues to assess what policies would help open markets and improve U.S. clean energy technology exports in support of the following areas:

(i) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;

(ii) improving energy end-use efficiency technologies, including buildings and facilities, vehicle, industrial, and co-generation technology initiatives; and

(iii) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives.

(D) establish an advisory committee involving the private sector and other interested groups on the export and deployment of clean energy technology;

(E) monitor each agency's progress towards meeting goals in the 5–year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2002;

(F) make recommendations to heads of appropriate Federal agencies on ways to streamline federal programs and policies improve each agency's role in the international development, demonstration, and deployment of clean energy technology;

(G) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(H) recommend conditions and criteria that will help ensure that United States funds promote sound energy policies in participating countries while simultaneously opening their markets and exporting United States energy technology.

(c) FEDERAL SUPPORT FOR CLEAN EENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each federal agency or government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country, country in transition, or other partner country shall support, to the maximum extent practicable, the transfer of United States clean energy technology as part of that program.

(d) ANNUAL REPORT.—Not later than April 1, 2002, and each year thereafter, the Interagency Working Group shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology investigated by the Interagency Working Group in that year, as well as any policy recommendations to improve the expansion of clean energy markets and U.S. clean energy technology exports.

(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of State, in consultation with other federal agencies, shall submit a report to Congress indicating how United States funds appropriated for clean energy technology exports and other relevant federal programs are being directed in a manner that promotes sound energy policy commitments in developing countries, countries in transition, and other partner countries, including efforts pursuant to multi-lateral environmental agreements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country, country in transition, or other partner country.

SEC. 1322. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13387) is amended by striking subsection (l) and inserting the following:

''(*l*) INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term ''international energy deployment project'' means a project to construct an energy production facility outside the United States—

''(i) the output of which will be consumed outside the United States; and

''(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented—

''(I) 10 percentage points or more, in the case of a unit placed in service before January 1, 2010;

''(II) 20 percentage points or more, in the case of a unit placed in service after December 31, 2009, and before January 1, 2020; or

''(III) 30 percentage points or more, in the case of a unit placed in service after December 31, 2019, and before January 1, 2030.

''(B) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term ''qualifying international energy deployment project'' means an international energy deployment project that—

''(i) is submitted by a United States firm to the Secretary in accordance with procedures established by the Secretary by regulation;

''(ii) uses technology that has been successfully developed or deployed in the United States;

''(iii) meets the criteria of subsection (k);

''(iv) is approved by the Secretary, with notice of the approval being published in the Federal Register; and

''(v) complies with such terms and conditions as the Secretary establishes by regulation.

''(C) UNITED STATES.—For purposes of this paragraph, the term ''United States'', when used in a geographical sense, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall, by regulation, provide for a pilot program for financial assistance for qualifying international energy deployment projects.

''(B) SELECTION CRITERIA.— After consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to the country in which the project is located.

''(C) FINANCIAL ASSISTANCE.—

''(i) IN GENERAL.— A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

''(ii) RATE OF INTEREST.— The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.

''(iii) AMOUNT.— The amount of a loan or loan guarantee under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.

''(iv) DEVELOPED COUNTRIES.— Loans or loan guarantees made for projects to be located in a developed country, as listed in Annex I of the United Nations Framework Convention on Climate Change, shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

''(v) DEVELOPING COUNTRIES.— Loans or loan guarantees made for projects to be located in a developing country (those countries not listed in Annex I of the United Nations Framework Convention on Climate Change) shall require at least a 10 percent contribution towards the total cost of the loan or loan guarantee by the host country.

''(vi) CAPACITY BUILDING RESEARCH.— Proposals made for projects to be located in a developing country may include a research component intended to build technological capacity within the host country. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution shall contribute at least 50 percent of funds provided for the capacity building research.

''(D) COORDINATION WITH OTHER PROGRAMS.— A qualifying international energy deployment project funded under this section shall not be eligible as a qualifying clean coal technology under section 415 of the Clean Air Act (42 U.S.C. 7651n).

''(E) REPORT.— Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President a report on the results of the pilot projects.

''(F) RECOMMENDATION.— Not later than 60 days after receiving the report under subparagraph (E), the President shall submit to Congress a recommendation, based on the results of the pilot projects as reported by the Secretary of Energy, concerning whether the financial assistance program under this section should be continued, expanded, reduced, or eliminated.

''(3) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated to the Secretary carry out this section $100,000,000 for each of fiscal years 2003 through 2011, to remain available until expended.''.

Subtitle D—Climate Change Science and Information

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

SEC. 1331. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

SEC. 1332. CHANGES IN DEFINITIONS.

Paragraph (1) of section 2 (15 U.S.C. 2921) is amended by striking ''Earth and'' inserting ''Climate and''.

SEC. 1333. CHANGE IN COMMITTEE NAME.

Section 102 (15 U.S.C. 2932) is amended—

(1) by striking ''EARTH AND'' in the section heading and inserting ''CLIMATE AND''; and

(2) by striking ''Earth and'' in subsection (a) and inserting ''Climate and''.

SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.

Section 104 (15 U.S.C. 2934) is amended—

(1) by adding at the end of subsection (c) the following:

''(6) Methods for integrating information to provide predictive tools for planning and decision making by governments, communities and the private sector.'';

(2) by inserting ''local, State, and Federal'' before ''policy makers'' in subsection (d)(3);

(3) by striking ''and'' in subsection (d)(2);

(4) by striking ''change.'' in subsection (d)(3) and inserting ''change; and'';

(5) by adding at the end of subsection (d) the following:

''(4) establish a common assessment and modeling framework that may be used in both research and operations to predict and assess the vulnerability of natural and managed ecosystems and of human society in the context of other environmental and social changes.''; and

(6) by adding at the end the following:

''(g) STRATEGIC PLAN; REVISED IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Climate Change Research Program for the 10–

year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Climate Change Act of 2002. The Chairman, through the Committee, shall also submit a revised implementation plan under subsection (a).''.

SEC. 1335. INTEGRATED PROGRAM OFFICE.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(2) inserting before subsection (b), as redesignated, the following:

''(a) INTEGRATED PROGRAM OFFICE.—

''(1) ESTABLISHMENT.—There is established in the Office of Science and Technology Policy an integrated program office for the global change research program.

''(2) ORGANIZATION.—The integrated program office established under paragraph (1) shall be headed by the associate director with responsibility for climate change science and technology and shall include a representative from each Federal agency participating in the global change research program.

''(3) FUNCTION.—The integrated program office shall—

''(A) manage, working in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;

''(B) ensure that the activities and programs of each Federal agency or department participating in the program address the goals and objectives identified in the strategic research plan and interagency implementation plans;

''(C) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the climate change action strategy;

''(D) review, solicit, and identify, and allocate funds for, partnership projects that address critical research objectives or operational goals of the program, including projects that would fill research gaps identified by the program, and for which project resources are shared among at least 2 agencies participating in the program; and

''(E) review and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.

''(4) GRANT AUTHORITY.—The Integrated Program Office may authorize 1 or more of the departments or agencies participating in the program to enter into contracts and make grants, using funds appropriated for use by the Office of Science and Technology Policy for the purpose of carrying out the responsibilities of that Office.

''(5) FUNDING.—For fiscal year 2003, and each fiscal year thereafter, not less than $13,000,000 shall be made available to the Integrated Program Office from amounts appropriated to or for the use of the Office of Science and Technology Policy.'';

(3) by striking ''Committee.'' in paragraph (2) of subsection (c), as redesignated, and inserting ''Committee and the Integrated Program Office.''; and

(4) by inserting ''and the Integrated Program Office'' after ''Committee'' in paragraph (1) of subsection (d), as redesignated.

PART II—NATIONAL CLIMATE SERVICES AND MONITORING

SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

SEC. 1342. CHANGES IN FINDINGS.

Section 2 (15 U.S.C. 2901) is amended—

(1) by striking ''Weather and climate change affect'' in paragraph (1) and inserting ''Weather, climate change, and climate variability affect public safety, environmental security, human health,'';

(2) by striking ''climate'' in paragraph (2) and inserting ''climate, including seasonal and decadal fluctuations,'';

(3) by striking ''changes.'' in paragraph (5) and inserting ''changes and providing free exchange of meteorological data.''; and

(4) by adding at the end the following:

''(7) The present rate of advance in research and development is inadequate and new developments must be incorporated rapidly into services for the benefit of the public.

''(8) The United States lacks adequate infrastructure and research to meet national climate monitoring and prediction needs.''.

SEC. 1343. TOOLS FOR REGIONAL PLANNING.

Section 5(d) (15 U.S.C. 2904(d)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (3) the following:

''(4) methods for improving modeling and predictive capabilities and developing assessment methods to guide national, regional, and local planning and decision-making on land use, water hazards, and related issues;

(3) by inserting ''sharing,'' after ''collection,'' in paragraph (5), as redesignated;

(4) by striking ''experimental'' each place it appears in paragraph (9), as redesignated;

(5) by striking ''preliminary'' in paragraph (10), as redesignated;

(6) by striking ''this Act,'' the first place it appears in paragraph (10), as redesignated, and inserting ''the Global Climate Change Act of 2002,''; and

(7) by striking ''this Act,'' the second place it appears in paragraph (10), as redesignated, and inserting ''that Act,''.

SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.

Section 9 (15 U.S.C. 2908) is amended—

(1) by striking ''1979,'' and inserting ''2002,'';

(2) by striking ''1980,'' and inserting ''2003,'';

(3) by striking ''1981,'' and inserting ''2004,''; and

(4) by striking ''$25,500,000'' and inserting ''$75,500,000''.

SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.

The Act (15 U.S.C. 2901 et seq.) is amended by inserting after section 5 the following:

''SEC. 6. NATIONAL CLIMATE SERVICE PLAN.

''Within one year after the date of enactment of the Global Climate Change Act of 2002, the Secretary of Commerce shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Science Committee a plan of action for a National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for—

''(1) a national center for operational climate monitoring and predicting with the functional capacity to monitor and adjust observing systems as necessary to reduce bias;

''(2) the design, deployment, and operation of an adequate national climate observing system that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;

''(3) the establishment of a national coordinated modeling strategy, including a national climate modeling center to provide a dedicated capability for climate modeling and a regular schedule of projections on a long and short term time schedule and at a range of spatial scales;

''(4) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;

''(5) in coordination with the private sector, improving the capacity to assess the impacts of predicted and projected climate changes and variations;

''(6) a program for long term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and critical model simulations; and

''(7) mechanisms to coordinate among Federal agencies, State, and local government entities and the academic community to ensure timely and full sharing and dissemination of climate information and services, both domestically and internationally.''.

SEC. 1346. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.

The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $1,500,000 to the National Oceanic and Atmospheric Administration, $1,500,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific ENSO Applications Center.

SEC. 1347. REPORTING ON TRENDS.

(a) ATMOSPHERIC MONITORING AND VERIFICATION PROGRAM.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and emissions. Where feasible, the program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurements and standards that are consistent with those utilized in the greenhouse gas measurement and reporting system established under subsection (a) and the registry established under section 1102.

(b) ANNUAL REPORTING.—The Secretary of Commerce shall issue an annual report that identifies greenhouse emissions and trends on a local, regional, and national level. The report shall also identify emissions or reductions attributable to individual or multiple sources covered by the greenhouse gas measurement and reporting system established under section 1102.

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.

(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—

(1) understanding, assessing and responding to human-induced and natural processes of global change;

(2) improving weather forecasts and public warnings;

(3) strengthening national security and military preparedness;

(4) enhancing the safety and efficiency of marine operations;
(5) supporting efforts to restore the health of and manage coastal and marine ecosystems and living resources;
(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;
(7) reducing and mitigating ocean and coastal pollution; and
(8) providing information that contributes to public awareness of the state and importance of the oceans.
(b) COUNCIL FUNCTIONS.—In addition to its responsibilities under section 7902(a) of such title, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—
(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—
(A) uses an end-to end engineering and development approach to develop a system design and schedule for operational implementation;
(B) determines how current and planned observing activities can be integrated in a cost-effective manner;
(C) provides for regional and concept demonstration projects;
(D) describes the role and estimated budget of each Federal agency in implementing the plan;
(E) contributes, to the extent practicable, to the National Global Change Research Plan under section 104 of the Global Change Research Act of 1990 (15 U.S.C. 2934); and
(F) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations;
(2) serve as the mechanism for coordinating Federal ocean observing requirements and activities;
(3) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;
(4) approve standards and protocols for the administration of the system, including—
(A) a common set of measurements to be collected and distributed routinely and by uniform methods;
(B) standards for quality control and assessment of data;
(C) design, testing and employment of forecast models for ocean conditions;
(D) data management, including data transfer protocols and archiving; and
(E) designation of coastal ocean observing regions; and
(5) in consultation with the Secretary of State, provide representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.
(c) SYSTEM ELEMENTS.—The integrated ocean and coastal observing system shall include the following elements:
(1) A nationally coordinated network of regional coastal ocean observing systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practice, but that are adapted to local and regional needs.
(2) Ocean sensors for climate observations, including the Arctic Ocean and sub-polar seas.
(3) Coastal, relocatable, and cabled sea floor observatories.
(4) Broad bandwidth communications that are capable of transmitting high volumes of data from open ocean locations at low cost and in real time.
(5) Ocean data management and assimilation systems that ensure full use of new sources of data from space-borne and in situ sensors.
(6) Focused research programs.
(7) Technology development program to develop new observing technologies and techniques, including data management and dissemination.
(8) Public outreach and education.

SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.

For development and implementation of an integrated ocean and coastal observation system under this title, including financial assistance to regional coastal ocean observing systems, there are authorized to be appropriated $235,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $390,000,000 in fiscal year 2005, and $445,000,000 in fiscal year 2006.

Subtitle E—Climate Change Technology

SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—
(1) striking ''and'' after the semicolon in paragraph (21);
(2) by redesignating paragraph (22) as paragraph (23); and
(3) by inserting after paragraph (21) the following:
''(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulphur hexafluoride; and''.

SEC. 1362. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.

(a) IN GENERAL.—The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—
(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;
(2) non-carbon dioxide greenhouse gas emissions from transportation;
(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and
(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.

SEC. 1363. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—
(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and
(2) by inserting after section 16 the following:

''SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.

''(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 4 of the Global Climate Change Act of 2002).
''(b) RESEARCH PROGRAM.—
''(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.
''(2) RESEARCH PROJECTS.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—
''(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;
''(B) to assist in establishing of a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;
''(C) that will be exchanged internationally as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouse gases; and
''(D) to assist in developing improved industrial processes designed to reduce or eliminated greenhouse gases.
''(c) NATIONAL MEASUREMENT LABORATORIES.—
''(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.
''(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—
''(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;
''(B) developing environmentally-friendly, 'green' chemical processes to be used by industry; and
''(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low or no-emission technologies into building designs.
''(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-aided design procedures for building subsystems and 'smart buildings', and improved test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.
''(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.''.

SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

(a) ADVANCED TECHNOLOGY PROGRAM COMPETITIONS.—The Director of the National Institute of Standards and Technology, through the Advanced Technology Program, may hold a portion of the Institute's competitions in thematic areas, selected after consultation with industry, academics, and other Federal Agencies, designed to develop and commercialize enabling technologies to

address global climate change by significantly reducing greenhouse gas emissions and concentrations in the atmosphere.

(b) MANUFACTURING EXTENSION PARTNERSHIP PROGRAM FOR ''GREEN'' MANUFACTURING.—The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to support the implementation of new ''green'' manufacturing technologies and techniques by the more than 380,000 small manufacturers.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out functions pursuant to sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.

(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for regional impacts related to increasing concentrations of greenhouse gases in the atmosphere and climate variability.

(b) COORDINATION.—In designing such program the Secretary shall consult with the Federal Emergency Management Agency, the Environmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, and other appropriate Federal, State, and local government entities.

(c) VULNERABILITY ASSESSMENTS.—The program shall—

(1) evaluate, based on predictions developed under this Act and the National Climate Program Act (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) increases in severe weather events;

(B) sea level rise and shifts in the hydrological cycle;

(C) natural hazards, including tsunami, drought, flood and fire; and

(D) alteration of ecological communities, including at the ecosystem or watershed levels; and

(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

(d) PREPAREDNESS RECOMMENDATIONS.—The program shall submit a report to Congress within 2 years after the date of enactment of this Act that identifies and recommends implementation and funding strategies for short and long-term actions that may be taken at the national, regional, State, and local level—

(1) to minimize threats to human life and property,

(2) to improve resilience to hazards,

(3) to minimize economic impacts; and

(4) to reduce threats to critical biological and ecological processes.

(e) INFORMATION AND TECHNOLOGY.—The Secretary shall make available appropriate information and other technologies and products that will assist national, regional, State, and local efforts to reduce loss of life and property, and coordinate dissemination of such technologies and products.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $4,500,000 to implement the requirements of this section.

SEC. 1372. COASTAL VULNERABILITY AND ADAPTATION.

(a) COASTAL VULNERABILITY.—Within 2 years after the date of enactment of this Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, conduct regional assessments of the vulnerability of coastal areas to hazards associated with climate change, climate variability, sea level rise, and fluctuation of Great Lakes water levels. The Secretary may also establish, as warranted, longer term regional assessment programs. The Secretary may also consult with the governments of Canada and Mexico as appropriate in developing such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, sea level rise, natural hazards, and coastal erosion and mapping, and specifically address impacts on Arctic regions and the Central, Western, and South Pacific regions. The regional assessments shall include an evaluation of—

(1) social impacts associated with threats to and potential losses of housing, communities, and infrastructure;

(2) physical impacts such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, and species migration; and

(3) economic impact on local, State, and regional economies, including the impact on abundance or distribution of economically important living marine resources.

(b) COASTAL ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of this Act, submit to the Congress a national coastal adaptation plan, composed of individual regional adaptation plans that recommend targets and strategies to address coastal impacts associated with climate change, sea level rise, or climate variability. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan at the State and local levels. The regional plans that will make up the national coastal adaptation plan shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions. The Plan shall recommend both short and long-term adaptation strategies and shall include recommendations regarding—

(1) Federal flood insurance program modifications;

(2) areas that have been identified as high risk through mapping and assessment;

(3) mitigation incentives such as rolling easements, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, and zoning;

(4) land and property owner education;

(5) economic planning for small communities dependent upon affected coastal resources, including fisheries; and

(6) funding requirements and mechanisms.

(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall establish a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to coastal States for the purposes of developing their own State and local plans.

(d) COASTAL ADAPTATION GRANTS.—The Secretary shall provide grants of financial assistance to coastal States with Federally approved coastal zone management programs to develop and begin implementing coastal adaptation programs if the State provides a Federal-to-State match of 4 to 1 in the first fiscal year, 2.3 to 1 in the second fiscal year, 2 to 1 in the third fiscal year, and 1 to 1 thereafter. Distribution of these funds to coastal states shall be based upon the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)), adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.

(e) COASTAL RESPONSE PILOT PROGRAM.—

(1) IN GENERAL.— The Secretary shall establish a 4–year pilot program to provide financial assistance to coastal communities most adversely affected by the impact of climate change or climate variability that are located in States with Federally approved coastal zone management programs.

(2) ELIGIBLE PROJECTS.— A project is eligible for financial assistance under the pilot program if it—

(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been damaged by such an impact, as determined by the Secretary;

(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal zone management plan of the State in which it is located; and

(C) will not cost more than $100,000.

(3) FUNDING SHARE.— The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—

(A) the Secretary may take into account in-kind contributions and other non-cash support of any project to determine the Federal funding share for that project; and

(B) the Secretary may waive the requirements of this paragraph for a project in a community if—

(i) the Secretary determines that the project is important; and

(ii) the economy and available resources of the community in which the project is to be conducted are insufficient to meet the non-Federal share of the projects's costs.

(f) DEFINITIONS.— Any term used in this section that is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually for regional assessments under subsection (a), and $3,000,000 annually for coastal adaptation grants under subsection (d).

PART II—FORECASTING AND PLANNING PILOT PROGRAMS

SEC. 1381. REMOTE SENSING PILOT PROJECTS.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration shall establish, through the National Oceanic and Atmospheric Administration's Coastal Services Center, a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs to forecast a plan for adaptation to coastal zone and land use changes that may result as a consequence of global climate change or climate variability.

(b) PREFERRED PROJECTS.—In awarding grants under this section, the Center shall give preference to projects that—

(1) focus on areas that are most sensitive to the consequences of global climate change or climate variability;

(2) make use of existing public or commercial data sets;

(3) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(4) offer diverse, innovative approaches that may serve as models for establishing a

future coordinated framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;

(5) include funds or in-kind contributions from non-Federal sources;

(6) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and

(7) taken together demonstrate as diverse a set of public sector applications as possible.

(c) OPPORTUNITIES.—In carrying out this section, the Center shall seek opportunities to assist—

(1) in the development of commercial applications potentially available from the remote sensing industry; and

(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for management and adaptation to coastal and land use consequences of global climate change or climate variability.

(d) DURATION.—Assistance for a pilot project under subsection (a) shall be provided for a period of not more than 3 years.

(e) RESPONSIBILITIES OF GRANTEES.—Within 180 days after completion of a grant project, each recipient of a grant under subsection (a) shall transmit a report to the Center on the results of the pilot project and conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

(f) REGULATIONS.—The Center shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops required by this section.

SEC. 1382. DATABASE ESTABLISHMENT.

The Center shall establish and maintain an electronic, Internet-accessible database of the results of each pilot project completed under section 1381.

SEC. 1383. DEFINITIONS.

In this subtitle:

(1) CENTER.—The term ''Center'' means the Coastal Services Center of the National Oceanic and Atmospheric Administration.

(2) GEOSPATIAL INFORMATION.—The term ''geospatial information'' means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data.

(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)).

SEC. 1384. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out the provisions of this subtitle—

(1) $17,500,000 for fiscal year 2003;

(2) $20,000,000 for fiscal year 2004;

(3) $22,500,000 for fiscal year 2005; and

(4) $25,000,000 for fiscal year 2006.

TITLE XIV—MANAGEMENT OF DOE SCIENCE AND TECHNOLOGY PROGRAMS

SEC. 1401. DEFINITIONS.

In this title:

(1) APPLICABILITY OF DEFINITIONS.—The definitions in section 1203 shall apply.

(2) SINGLE-PURPOSE RESEARCH FACILITY.—The term ''single-purpose research facility'' means any of the following primarily single purpose entities owned by the Department of Energy—

(A) Ames Laboratory;

(B) East Tennessee Technology Park;

(C) Environmental Measurement Laboratory;

(D) Fernald Environmental Management Project;

(E) Fermi National Accelerator Laboratory;

(F) Kansas City Plant;

(G) Nevada Test Site;

(H) New Brunswick Laboratory;

(I) Pantex Weapons Facility;

(J) Princeton Plasma Physics Laboratory;

(K) Savannah River Technology Center;

(L) Stanford Linear Accelerator Center;

(M) Thomas Jefferson National Accelerator Facility;

(N) Y–12 facility at Oak Ridge National Laboratory;

(O) Waste Isolation Pilot Plant; or

(P) other similar organization of the Department designated by the Secretary that engages in technology transfer, partnering, or licensing activities.

SEC. 1402. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department of Energy under title XII, title XIII, and title XV shall remain available until expended.

SEC. 1403. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—For research and development projects funded from appropriations authorized under subtitles A through D of title XII, the Secretary shall require a commitment from non-federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND DEPLOYMENT.—For demonstration and technology deployment activities funded from appropriations authorized under subtitles A through D of title XII, the Secretary shall require a commitment from non-federal sources of at least 50 percent of the costs of the project directly and specifically related to any demonstration or technology deployment activity. The Secretary may reduce or eliminate the non-federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet one or more goals of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary shall include cash, personnel, services, equipment, and other resources.

SEC. 1404. MERIT REVIEW OF PROPOSALS.

Awards of funds authorized under title XII, subtitle A of title XIII, and title XV shall be made only after an independent review of the scientific and technical merit of the proposals for such awards has been made by the Department of Energy.

SEC. 1405. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—(1) The Secretary shall establish an advisory board to oversee Department research and development programs in each of the following areas—

(A) energy efficiency;

(B) renewable energy;

(C) fossil energy;

(D) nuclear energy; and

(E) climate change technology, with emphasis on integration, collaboration, and other special features of the cross-cutting technologies supported by the Office of Climate Change Technology.

(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, or may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) UTILIZATION OF EXISTING COMMITTEES.—The Secretary of Energy shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of experts drawn from industry, academia, federal laboratories, research institutions, or state, local, or tribal governments, as appropriate.

(d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet at least semi-annually to review and advise on the progress made by the respective research, development, demonstration, and technology deployment program. The advisory board shall also review the adequacy and relevance of the goals established for each program by Congress and the President, and may otherwise advise on promising future directions in research and development that should be considered by each program.

SEC. 1406. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

''(b)(1) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(2) The Under Secretary for Energy and Science shall be appointed from among persons who—

''(A) have extensive background in scientific or engineering fields; and

''(B) are well qualified to manage the civilian research and development programs of the Department of Energy.

''(3) The Under Secretary for Energy and Science shall—

''(A) serve as the Science and Technology Advisor to the Secretary;

''(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

''(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

''(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

''(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

''(F) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology functions under sections 203 and 209, as well as other elements of the Department assigned by the Secretary.

(b) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended to read as follows—

''(a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary of Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who

shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Assistant Secretary of Science shall be in addition to the Assistant Secretaries provided for under section 203 of this Act.

''(c) It shall be the duty and responsibility of the Assistant Secretary of Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary.''.

(c) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking ''There shall be in the Department six Assistant Secretaries'' and inserting ''Except as provided in section 209, there shall be in the Department seven Assistant Secretaries''.

(2) It is the Sense of the Senate that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:

''(d) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(e) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

(2) Section 5314 of title 5, United States Code, is amended by striking ''Under Secretaries of Energy (2)'' and inserting ''Under Secretaries of Energy (3)''.

(3) Section 5315 of title 5, United States Code, is amended by—

(A) striking ''Director, Office of Science, Department of Energy.''; and

(B) striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (8)''.

(4) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(A) by striking ''Section 209'' and inserting ''Sec. 209'';

(B) by striking ''213.'' and inserting ''Sec. 213'';

(C) by striking ''214.'' and inserting ''Sec. 214.'';

(D) by striking ''215.'' and inserting ''Sec. 215.''; and

(E) by striking ''216.'' and inserting ''Sec. 216.''.

SEC. 1407. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.

(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall appoint a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Partnerships Working Group, and shall oversee the expenditure of funds allocated to the Technology Partnership Working Group.

(b) TECHNOLOGY PARTNERSHIP WORKING GROUP.—The Secretary shall establish a Technology Partnership Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department.

SEC 1408. 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 or 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 or 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—

(A) institutions of higher education,

(B) technology-related business concerns,

(C) nonprofit institutions, and

(D) agencies of State, tribal, or local governments,

that can support departmental missions at the National Laboratories and single-purpose research facilities.

(c) PROJECTS.—The Secretary shall authorize the Director of each National Laboratory or facility to implement the Technology Infrastructure Program at such National Laboratory or single-purpose research 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) MINIMUM PARTICIPANTS.—Each project shall at a minimum include—

(A) a National Laboratory or single-purpose research facility; and

(B) one of the following entities—

(i) a business,

(ii) an institution of higher education,

(iii) a nonprofit institution, or

(iv) an agency of a State, local, or tribal government.

(2) COST SHARING.—

(A) MINIMUM AMOUNT.—Not less than 50 percent of the costs of each project funded under this section shall be provided from non-Federal sources.

(B) QUALIFIED FUNDING AND RESOURCES.—

(i) 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.

(ii) Independent research and development expenses of government contractors that qualify for reimbursement under section 31–205–18(e) of the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(iii) No funds or other resources expended either before the start of a project under this section or outside the project's scope of work shall be credited toward the costs paid by the non-Federal sources to the project.

(3) COMPETITIVE SELECTION.—All projects in which a party other than the Department, a National Laboratory, or a single-purpose research facility receives funding under this section shall, to the extent practicable, be competitively selected by the National Laboratory or facility using procedures determined to be appropriate by the Secretary.

(4) ACCOUNTING STANDARDS.—Any participant that receives funds under this section, other than a National Laboratory or single-purpose research facility, may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(5) LIMITATIONS.—No Federal funds shall be made available under this section for—

(A) construction; or

(B) any project for more than five years.

(e) SELECTION CRITERIA.—

(1) THRESHOLD FUNDING CRITERIA.—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) ADDITIONAL CRITERIA.—The Secretary shall require the Director of the National Laboratory or single-purpose research facility managing a project under this section to consider the following criteria in selecting a project to receive Federal funds—

(A) the potential of the project to succeed, based on its technical merit, team members, management approach, resources, and project plan;

(B) the potential of the project to promote the development of a commercially sustainable technology cluster, 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;

(C) 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 departmental mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(D) the commitment shown by non-Federal organizations to the project, based primarily on the nature and amount of the financial and other resources they will risk on the project;

(E) 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;

(F) the extent of participation in the project by agencies of State, tribal, or local governments that will make substantive contributions to achieving the goals of the project;

(G) the extent to which the project focuses on promoting the development of technology-related business concerns that are small business concerns or involves such small business concerns substantively in the project; and

(H) such other criteria as the Secretary determines to be appropriate.

(f) REPORT TO CONGRESS.—Not later than January 1, 2004, the Secretary shall report to Congress on whether the Technology Infrastructure Program should be continued and, if so, how the program should be managed.

(g) DEFINITIONS.—In this section:

(1) TECHNOLOGY CLUSTER.—The term ''technology cluster'' means a concentration of—

(A) technology-related business concerns;

(B) institutions of higher education; or

(C) other 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—

(A) conducts scientific or engineering research,

(B) develops new technologies,

(C) manufacturers products based on new technologies, or

(D) performs technological services.

(h) 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 2003 and 2004.

SEC. 1409. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to appoint a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and clear, up-to-date information on how to participate in the procurement and collaborative research, including how to submit effective proposals;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or single-purpose research facility.

(b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary shall require the Director of each National Laboratory, and may require the director of a single-purpose research facility, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facility; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern's products or services.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

(d) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS.—The term ''socially and economically disadvantaged small business concerns'' has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

SEC. 1410. OTHER TRANSACTIONS.

(a) IN GENERAL.—Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

''(g) OTHER TRANSACTIONS AUTHORITY.—(1) In addition to other authorities granted to the Secretary to enter into procurement contracts, leases, cooperative agreements, grants, and other similar arrangements, the Secretary may enter into other transactions with public agencies, private organizations, or persons on such terms as the Secretary may deem appropriate in furtherance of basic, applied, and advanced research functions now or hereafter vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

''(2)(A) The Secretary of Energy shall ensure that—

''(i) to the maximum extent practicable, no transaction entered into under paragraph (1) provides for research that duplicates research being conducted under existing programs carried out by the Department of Energy; and

''(ii) to the extent that 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.

''(B) A transaction authorized by paragraph (1) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.

''(3)(A) The Secretary shall not disclose any trade secret or commercial or financial information submitted by a non-Federal entity under paragraph (1) that is privileged and confidential.

''(B) The Secretary shall not disclose, for five years after the date the information is received, any other information submitted by a non-Federal entity under paragraph (1), including any proposal, proposal abstract, document supporting a proposal, business plan, or technical information that is privileged and confidential.

''(C) The Secretary may protect from disclosure, for up to five years, any information developed pursuant to a transaction under paragraph (1) that 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.''.

(b) IMPLEMENTATION.—Not later than six months after the date of enactment of this section, the Department shall establish guidelines for the use of other transactions.

SEC. 1411. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than two years after the enactment of this section, the Secretary, acting through the Technology Transfer Coordinator under section 1407, shall determine whether each contractor operating a National Laboratory or single-purpose research facility has policies and procedures that do not create disincentives to the transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities.

SEC. 1412. NATIONAL ACADEMY OF SCIENCES REPORT.

Within 90 days after the date of enactment of this Act, the Secretary shall contract with the National Academy of Sciences to—

(1) conduct a study on the obstacles to accelerating the innovation cycle for energy technology, and

(2) report to the Congress recommendations for shortening the cycle of research, development, and deployment.

SEC. 1413. REPORT ON TECHNOLOGY READINESS AND BARRIERS TO TECHNOLOGY TRANSFER.

(a) IN GENERAL.—The Secretary, acting through the Technology Partnership Working Group and in consultation with representatives of affected industries, universities, and small business concerns, shall—

(1) assess the readiness for technology transfer of energy technologies developed through projects funded from appropriations authorized under subtitles A through D of title XIV, and

(2) identify barriers to technology transfer and cooperative research and development agreements between the Department or a National Laboratory and a non-federal person; and

(3) make recommendations for administrative or legislative actions needed to reduce or eliminate such barriers.

(b) REPORT.—The Secretary provide a report to Congress and the President on activities carried out under this section not later than one year after the date of enactment of this section, and shall update such report on a biennial basis, taking into account progress toward eliminating barriers to technology transfer identified in previous reports under this section.

TITLE XV—PERSONNEL AND TRAINING

SEC. 1501. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) WORKFORCE TRENDS.—

(1) MONITORING.—The Secretary of Energy (in this title referred to as the ''Secretary''), acting through the Administrator of the Energy Information Administration, in consultation with the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy-efficiency, the oil and gas industry, nuclear power industry, the coal industry, and other industrial sectors as the Secretary may deem appropriate.

(2) ANNUAL REPORTS.—The Administrator of the Energy Information Administration shall include statistics on energy industry workforce trends in the annual reports of the Energy Information Administration.

(3) SPECIAL REPORTS.—The Secretary shall report to the appropriate committees of Congress whenever the Secretary determines that significant shortfalls of technical personnel in one or more energy industry segments are forecast or have occurred.

(b) TRAINEESHIP GRANTS FOR TECHNICALLY SKILLED PERSONNEL.—

(1) GRANT PROGRAMS.—The Secretary shall establish grant programs in the appropriate offices of the Department to enhance training of technically skilled personnel for which a shortfall is determined under subsection (a).

(2) ELIGIBLE INSTITUTIONS.—As determined by the Secretary to be appropriate to the particular workforce shortfall, the Secretary shall make grants under paragraph (1) to—

(A) an institution of higher education;

(B) a postsecondary educational institution providing vocational and technical education (within the meaning given those terms in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302));

(C) appropriate agencies of State, local, or tribal governments; or

(D) joint labor and management training organizations with state or federally recognized apprenticeship programs and other employee-based training organizations as the Secretary considers appropriate.

(c) DEFINITION.—For purposes of this section, the term ''skilled technical personnel'' means journey and apprentice level workers who are enrolled in or have completed a sate or federally recognized apprenticeship program and other skilled workers in energy technology industries.

(d) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as may be necessary for each fiscal year.

SEC. 1502. POSTDOCTORAL AND SENIOR RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.

(a) POSTDOCTORAL FELLOWSHIPS.—The Secretary shall establish a program of fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice. In establishing a program under this subsection, the Secretary may enter into appropriate arrangements with the National Academy of Sciences to help administer the program.

(b) DISTINGUISHED SENIOR RESEARCH FELLOWESHIPS.—The Secretary shall establish a program of fellowships to allow outstanding senior researchers in energy research and development and their research groups to explore research and development topics of their choosing for a fixed period of time. Awards under this program shall be made on the basis of past scientific or technical accomplishment and promise for continued accomplishment during the period of support, which shall not be less than 3 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as may be necessary for each fiscal year.

SEC. 1503. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) MODEL GUIDELINES.—The Secretary shall, in cooperation with electric generation, transmission, and distribution companies and recognized representatives of employees of those entities, develop model employee training guidelines to support electric supply system reliability and safety.

(b) CONTENT OF GUIDELINES.—The guidelines under this section shall include—

(1) requirements for worker training, competency, and certification, developed using criteria set forth by the Utility Industry Group recognized by the National Skill Standards Board; and

(2) consolidation of existing guidelines on the construction, operation, maintenance, and inspection of electric supply generation, transmission and distribution facilities such as those established by the National Electric Safety Code and other industry consensus standards.

SEC. 1504. NATIONAL CENTER ON ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall establish a National Center on Energy Management and Building Technologies, to carry out research, education, and training activities to facilitate the improvement of energy efficiency and indoor air quality in industrial, commercial and residential buildings. The National Center shall be established in cooperation with-

(1) recognized representatives of employees in the heating, ventilation, and air conditioning industry;

(2) contractors that install and maintain heating, ventilation and air conditioning systems and equipment;

(3) manufacturers of heating, ventilation and air-conditioning systems and equipment;

(4) representatives of the advanced building envelope industry, including design, windows, lighting, and insulation industries; and

(5) other entities as appropriate.

SEC. 1505. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) DEPARTMENT OF ENERGY SCIENCE EDUCATION PPROGRAMS.—

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 WOMEN AND MINORITY STUDENTS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage women and minority students 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 the 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 the term in section 1203 of the Energy Science and Technology Enhancement Act of 2002.

''(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 1401 of the Energy Science and Technology Enhancement Act of 2002.

''(5) TRIBAL CCOLLEGE.—The term 'tribal college has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

''(b) EDUCATION PARTNERSHIP.—

''(1) IN GENERAL.—The Secretary shall direct the Director of each National Laboratory, and may direct the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in activities that increase the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

''(2) ACTIVITIES.—An activity under paragraph (1) may include—

''(A) collaborative research;

''(B) a transfer of equipment;

''(C) training of personnel at a National Laboratory or science facility; and

''(D) a mentoring activity by personnel at a National Laboratory or science facility.

''(c) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the activities carried out under this section.''.

DIVISION F—TECHNOLOGY ASSESSMENT AND STUDIES

TITLE XVI—TECHNOLOGY ASSESSMENT

SEC. 1601. NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following:

''TITLE VII—NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE

''SEC. 701. ESTABLISHMENT.

''There is hereby created a Science and Technology Assessment Service (hereinafter referred to as the 'Service'), which shall be within and responsible to the legislative branch of the Government.

''SEC. 702. COMPOSITION.

''The Service shall consist of a Science and Technology Board (hereinafter referred to as the 'Board') which shall formulate and promulgate the policies of the Service, and a Director who shall carry out such policies and administer the operations of the Service.

''SEC. 703. FUNCTIONS AND DUTIES.

''The Service shall coordinate and develop information for Congress relating to the uses and application of technology to address current national science and technology policy issues. In developing such technical assessments for Congress, the Service shall utilize, to the extent practicable, experts selected in coordination with the National Research Council.

''SEC. 704. INITIATION OF ACTIVITIES.

''Science and technology assessment activities undertaken by the Service may be initiated upon the request of—

''(1) the Chairman of any standing, special, or select committee of either House of the Congress, or of any joint committee of the Congress, acting for himself or at the request of the ranking minority member or a majority of the committee members;

''(2) the Board; or

''(3) the Director.

''SEC. 705. ADMINISTRATION AND SUPPORT.

''The Director of the Science and Technology Assessment Service shall be appointed by the Board and shall serve for a term of 6 years unless sooner removed by the Board. The Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Director shall contract for administrative support from the Library of Congress.

''SEC. 706. AUTHORITY.

''The Service shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this section, including, but without being limited to, the authority to—

''(1) make full use of competent personnel and organizations outside the Office, public or private, and form special ad hoc task forces or make other arrangements when appropriate;

''(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Office with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 51);

''(3) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Service and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation; and

''(4) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Service.

''SEC. 707. BOARD.

''The Board shall consist of 13 members as follows—

''(1) 6 Members of the Senate, appointed by the President pro tempore of the Senate, 3 from the majority party and 3 from the minority party;

''(2) 6 Members of the House or Representatives appointed by the Speaker of the House of Representatives, 3 from the majority party and 3 from the minority party; and

''(3) the Director, who shall not be a voting member.

''SEC. 708. REPORT TO CONGRESS.

''The Service shall submit to the Congress an annual report which shall include, but not be limited to, an evaluation of technology assessment techniques and identification, insofar as may be feasible, of technological areas and programs requiring future analysis. The annual report shall be submitted not later than March 15 of each year.

''SEC. 709. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Service such sums as are necessary to fulfill the requirements of this title.''.

TITLE XVII—STUDIES

SEC. 1701. REGULATORY REVIEWS .

(a) REGULATORY REVIEWS.—Not later than one year after the date of enactment of this section and every five years thereafter, each Federal agency shall review relevant regulations and standards to identify—

(1) existing regulations and standards that act as barriers to—

(A) market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, and small-scale renewable energy), and

(B) market development and expansion for existing energy technologies (including combined heat and power, small-scale renewable energy, and energy recovery in industrial processes), and

(2) actions the agency is taking or could take to—

(A) remove barriers to market entry for emerging energy technologies and to market expansion for existing technologies,

(B) increase energy efficiency and conservation, or (C) encourage the use of new and existing processes to meet energy and environmental goals.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, and every five years thereafter, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(c) CONTENTS OF THE REPORT.—The report shall—

(1) identify all regulatory barriers to—

(A) the development and commercialization of emerging energy technologies and processes, and

(B) the further development and expansion of existing energy conservation technologies and processes,

(2) actions taken, or proposed to be taken, to remove such barriers, and

(3) recommendations for changes in laws or regulations that may be needed to—

(A) expedite the siting and development of energy production and distribution facilities,

(B) encourage the adoption of energy efficiency and process improvements,

(C) facilitate the expanded use of existing energy conservation technologies, and

(D) reduce the environmental impacts of energy facilities and processes through transparent and flexible compliance methods.

SEC. 1702. ASSESSMENT OF DEPENDENCE OF HAWAII ON OIL.

(a) STUDY.—Not later than 60 days after the enactment of this Act, the Secretary of Energy shall initiate a study that assesses the economic risk posed by the dependence of Hawaii on oil as the principal source of energy.

(b) SCOPE OF THE STUDY.—The Secretary shall assess—

(1) the short- and long-term threats to the economy of Hawaii posed by insecure supply and volatile prices;

(2) the impact on availability and cost of refined petroleum products if oil-fired electric generation is displaced by other sources;

(3) the feasibility of increasing the contribution of renewable sources to the overall energy requirements of Hawaii; and

(4) the feasibility of using liquid natural gas as a source of energy to supplement oil.

(c) REPORT.—Not later than 300 days after the date of enactment of this section, the Secretary shall prepare, in consultation with appropriate agencies of the State of Hawaii, industry representatives, and citizen groups, and shall submit to Congress a report detailing the Secretary's findings, conclusions, and recommendations. The report shall include—

(1) a detailed analysis of the availability, economics, infrastructure needs, and recommendations to increase the contribution of renewable energy sources to the overall energy requirements of Hawaii; and

(2) a detailed analysis of the use of liquid natural gas, including—

(A) the availability of supply,

(B) economics,

(C) environmental and safety considerations,

(D) technical limitations,

(E) infrastructure and transportation requirements,

(F) siting and facility configurations, including—

(i) onshore and offshore alternatives, and

(ii) environmental and safety considerations of both onshore and offshore alternatives.

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

SEC. 1703. STUDY OF SITING AN ELECTRIC TRANSMISSION SYSTEM ON AMTRAK RIGHT-OF-WAY.

(a) STUDY.—The Secretary of Energy shall contract with Amtrak to conduct a study of the feasibility of building and operating a new electric transmission system on the Amtrak right-of-way in the Northeast Corridor.

(b) SCOPE OF THE STUDY.—The study shall focus on siting the new system on the Amtrak right-of-way within the Northeastern Corridor between Washington, D.C., and New Rochelle, New York, including the Amtrak right-of-way between Philadelphia, Pennsylvania and Harrisburg, Pennsylvania.

(c) CONTENTS OF THE STUDY.—The study shall consider—

(1) alternative geographic configuration of a new electronic transmission system on the Amtrak right-of-way;

(2) alternative technologies for the system;

(3) the estimated costs of building and operating each alternative;

(4) alternative means of financing the system;

(5) the environmental risks and benefits of building and operating each alternative as well as environmental risks and benefits of building and operating the system on the Northeast Corridor rather than at other locations;

(6) engineering and technological obstacles to building and operating each alternative; and

(7) the extent to which each alternative would enhance the reliability of the electric transmission grid and enhance competition in the sale of electric energy at wholesale within the Northeast Corridor.

(d) RECOMMENDATIONS.—The study shall recommend the optimal geographic configuration, the optimal technology, the optimal engineering design, and the optimal means of financing for the new system from among the alternatives considered.

(e) REPORT.—The Secretary of Energy shall submit the completed study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives not later than 270 days after the date of enactment of this section.

(f) DEFINITIONS.—For purposes of this section—

(1) the term ''Amtrak'' means the National Railroad Passenger Corporation established under chapter 243 of title 49, United States Code; and

(2) the term ''Northeast Corridor'' shall have the meaning given such term under section 24102(7) of title 49, United States Code.

DIVISION G—ENERGY INFRASTRUCTURE SECURITY

TITLE XVIII—CRITICAL ENERGY INFRASTRUCTURE

Subtitle A—Department of Energy Programs

SEC. 1801. DEFINITIONS.

In this title:

(1) CRITICAL ENERGY INFRASTRUCTURE.—

(A) IN GENERAL.—The term ''critical energy infrastructure'' means a physical or cyber-based system or service for—

(i) the generation, transmission or distribution of electric energy; or

(ii) the production, refining, or storage of petroleum, natural gas, or petroleum product—

the incapacity or destruction of which would have a debilitating impact on the defense or economic security of the United States.

(B) EXCLUSION.—The term shall not include a facility that is licensed by the Nuclear Regulatory Commission under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 and 2134(b)).

(2) DEPARTMENT; NATIONAL LABORATORY; SECRETARY.—The terms ''Department'', ''National Laboratory'', and ''Secretary'' have the meaning given such terms in section 1203.

SEC. 1802. ROLE OF THE DEPARTMENT OF ENERGY.

Section 102 of the Department of Energy Organization Act (42 U.S.C. 7112) is amended by adding at the end the following:

''(20) To ensure the safety, reliability, and security of the nation's energy infrastructure, and to respond to any threat to or disruption of such infrastructure, through activities including—

''(A) research and development;

''(B) financial assistance, technical assistance, and cooperative activities with States, industry, and other interested parties; and

''(C) education and public outreach activities.''.

SEC. 1803. CRITICAL ENERGY INFRASTRUCTURE PROGRAMS.

(a) PROGRAMS.—In addition to the authorities otherwise provided by law (including section 1261), the Secretary is authorized to establish programs of financial, technical, or administrative assistance to—

(1) enhance the security of critical energy infrastructure in the United States;

(2) develop and disseminate, in cooperation with industry, best practices for critical energy infrastructure assurance; and

(3) protect against, mitigate the effect of, and improve the ability to recover from disruptive incidents affecting critical energy infrastructure.

(b) REQUIREMENTS.—A program established under this section shall—

(1) be undertaken in consultation with the advisory committee established under section 1804;

(2) have available to it the scientific and technical resources of the Department, including resources at a National Laboratory; and

(3) be consistent with any overall Federal plan for national infrastructure security developed by the President or his designee.

SEC. 1804. ADVISORY COMMITTEE ON ENERGY INFRASTRUCTURE SECURITY.

(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee, or utilize an existing advisory committee within the Department, to advise the Secretary on policies and programs related to the security of U.S. energy infrastructure.

(b) BALANCED MEMBERSHIP.—The Secretary shall ensure that the advisory committee established or utilized under subsection (a) has a membership with an appropriate balance among the various interests related to energy infrastructure security, including-

(1) scientific and technical experts;

(2) industrial managers;

(3) worker representatives;

(4) insurance companies or organizations;

(5) environmental organizations;

(6) representatives of State, local, and tribal governments; and

(7) such other interests as the Secretary may deem appropriate.

(c) EXPENSES.—Members of the advisory committee established or utilized under subsection (a) shall serve without compensation, and shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the committee.

SEC. 1805. BEST PRACTICES AND STANDARDS FOR ENERGY INFRASTRUCTURE SECURITY.

The Secretary, in consultation with the advisory committee under section 1804, shall enter into appropriate arrangements with one or more standard-setting organizations, or similar organizations, to assist the development of industry best practices and standards for security related to protecting critical energy infrastructure.

Subtitle B—Department of the Interior Programs

SEC. 1811. OUTER CONTINENTAL SHELF ENERGY INFRASTRUCTURE SECURITY.

(a) DEFINITIONS.—In this section:

(1) APPROVED STATE PLAN.—The term 'approved State plan' means a State plan approved by the Secretary under subsection (c)(3).

(2) COASTLINE.—The term 'coastline' has the same meaning as the term 'coast line' as defined in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

(3) CRITICAL OCS ENERGY INFRASTRUCTURE FACILITY.—The term 'OCS critical energy infrastructure facility' means—

(A) a facility located in an OCS Production State or in the waters of such state related to the production of oil or gas on the Outer Continental Shelf; or

(B) a related facility located in an OCS Production State or in the waters of such state that carries out a public service, transportation, or infrastructure activity critical to the operation of an Outer Continental Shelf energy infrastructure facility, as determined by the Secretary.

(4) DISTANCE.—The term 'distance' means the minimum great circle distance, measured in statute miles.

(5) LEASED TRACT.—

(A) IN GENERAL.—The term 'leased tract' means a tract that—

(i) is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1335, 1337) for the purpose of drilling for, developing, and producing oil or natural gas resources; and

(ii) consists of a block, a portion of a block, a combination of blocks or portions of blocks, or a combination of portions of blocks, as—

(I) specified in the lease; and

(II) depicted on an outer Continental Shelf official protraction diagram.

(B) EXCLUSION.—The term 'leased tract' does not include a tract described in subparagraph (A) that is located in a geographic area subject to a leasing moratorium on January 1, 2001, unless the lease was in production on that date.

(6) OCS POLITICAL SUBDIVISION.—The term 'OCS political subdivision' means a county, parish, borough or any equivalent subdivision of an OCS Production State all or part of which subdivision lies within the coastal zone (as defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)).

(7) OCS PRODUCTION STATE.—The term 'OCS Production State' means the State of—

(A) Alaska;

(B) Alabama;

(C) California;

(D) Florida;

(E) Louisiana;

(F) Mississippi; or

(G) Texas.

(8) PRODUCTION.—The term 'production' has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(9) PROGRAM.—The term 'program' means the Outer Continental Shelf Energy Infrastructure Security Program established under subsection (b).

(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any State, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related late payment interest. Such term does not include any revenues from a leased tract or portion of a leased tract that is included within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.

(11) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

(12) STATE PLAN.—The term 'State plan' means a State plan described in subsection (b).

(b) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the ''Outer Continental Shelf Energy Infrastructure Security Program,'' under which the Secretary shall provide funds to OCS Production States to implement approved State plans to provide security against hostile and natural threats to critical OCS energy infrastructure facilities and support of any necessary public service or transportation activities that are needed to maintain the safety and operation of critical energy infrastructure activities. For purposes of this program, restoration of any coastal wetland shall be considered to be an activity that secures critical OCS energy infrastructure facilities from a natural threat.

(c) STATE PLANS.—

(1) INITIAL PLAN.—Not later than 180 days after the date of enactment of this Act, to be eligible to receive funds under the program, the Governor of an OCS Production State shall submit to the Secretary a plan to provide security against hostile and natural threats to critical energy infrastructure facilities in the OCS Production State and to support any of the necessary public service or transportation activities that are needed to maintain the safety and operation of critical energy infrastructure facilities. Such plan shall include—

(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;

(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used;

(C) a contact for each OCS political subdivision and description of how such political subdivisions will use amounts provided under this section, including a certification by the Governor that such uses are consistent with the requirements of this section; and

(D) Measures for taking into account other relevant Federal resources and programs.

(2) ANNUAL REVIEWS.—Not later than 1 year after the date of submission of the plan and annually thereafter, the Governor of an OCS Production State shall—

(A) review the approved State plan; and (B) submit to the Secretary any revised State plan resulting from the review.

(3) APPROVAL OF PLANS.—

(A) IN GENERAL.—In consultation with appropriate Federal security officials and the Secretaries of Commerce and Energy, the Secretary shall—

(i) approve each State plan; or

(ii) recommend changes to the State plan.

(B) RESUBMISSION OF STATE PLANS.—If the Secretary recommends changes to a State plan under subparagraph (A)(ii), the Governor of the OCS Production State may resubmit a revised State plan to the Secretary for approval.

(4) AVAILABILITY OF PLANS.—The Secretary shall provide to Congress a copy of each approved State plan.

(5) CONSULTATION AND PUBLIC COMMENT.—

(A) CONSULTATION.—The Governor of an OCS Production State shall develop the State plan in consultation with Federal, State, and local law enforcement and public safety officials, industry, Indian tribes, the scientific community, and other persons as appropriate.

(B) PUBLIC COMMENT.—The Governor of an OCS Production State may solicit public comments on the State plan to the extent that the Governor determines to be appropriate.

(d) ALLOCATION OF AMOUNTS BY THE SECRETARY.—The Secretary shall allocate the amounts made available for the purposes of carrying out the program provided for by this section among OCS Production States as follows:

(1) 25 percent of the amounts shall be divided equally among OCS Production States; and

(2) 75 percent of the amounts shall be divided among OCS Production States on the basis of the proximity of each OCS Production State to offshore locations at which oil and gas are being produced.

(e) CALCULATION.—The amount for each OCS Production State under paragraph (d)(2) shall be calculated based on the ratio of

qualified OCS revenues generated off the coastline of the OCS Production State to the qualified OCS revenues generated off the coastlines of all OCS Production States for the prior five-year period. Where there is more than one OCS Production State within 200 miles of a leased tract, the amount of each OCS Production State's payment under paragraph (d)(2) for such leased tract shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary. A leased tract or portion of a leased tract shall be excluded if the tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.

(f) PAYMENTS TO OCS POLITICAL SUBDIVISIONS.—Thirty-five percent of each OCS Production State's allocable share as determined under subsection (e) shall be paid directly to the OCS political subdivisions by the Secretary based on the following formula:

(1) 25 percent shall be allocated based on the ratio of such OCS political subdivision's population to the population of all OCS political subdivisions in the OCS Production State.

(2) 25 percent shall be allocated based on the ratio of such OCS political subdivision's coastline miles to the coastline miles of all OCS political subdivisions in the OCS Production State. For purposes of this subsection, those OCS political subdivisions without coastlines shall be considered to have a coastline that is the average length of the coastlines of all political subdivisions in the state.

(3) 50 percent shall be allocated based on the relative distance of such OCS political subdivision from any leased tract used to calculate that OCS Production State's allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary. For purposes of the calculations under this subparagraph, a leased tract or portion of a leased tract shall be excluded if the leased tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.

(g) FAILURE TO HAVE PLAN APPROVED.—Any amount allocated to an OCS Production State or OCS political subdivision but not disbursed because of a failure to have an approved Plan under this section shall be allocated equally by the Secretary among all other OCS Production States in a manner consistent with this subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section. The Secretary may waive the provisions of this paragraph and hold an OCS Production State's allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Plan.

(h) USE OF AMOUNTS ALLOCATED BY THE SECRETARY.—

(1) IN GENERAL.—Amounts allocated by the Secretary under subsection (d) may be used only in accordance with a plan approved pursuant to subsection (c) for—

(A) activities to secure critical OCS energy infrastructure facilities from human or natural threats; and

(B) support of any necessary public service or transportation activities that are needed to maintain the safety and operation of critical OCS energy infrastructure facilities.

(2) RESTORATION OF COASTAL WETLAND.—For the purpose of subparagraph (1)(A), restoration of any coastal wetland shall be considered to be an activity that secures critical OCS energy infrastructure facilities from a natural threat.

(i) FAILURE TO HAVE USE.—Any amount allocated to an OCS political subdivision but not disbursed because of a failure to have a qualifying use as described in subsection (h) shall be allocated by the Secretary to the OCS Production State in which the OCS political subdivision is located except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the use of the funds.

(j) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by an OCS Production State or an OCS political subdivision is not consistent with the uses authorized in subsection (h), the Secretary shall not disburse any further amounts under this section to that OCS Production State or OCS political subdivision until the amounts used for the inconsistent expenditure have been repaid or obligated for authorized uses.

(k) RULEMAKING.—The Secretary may promulgate such rules and regulations as may be necessary to carry out the purposes of this section, including rules and regulations setting forth an appropriate process for appeals.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated $450,000,000 for each of the fiscal years 2003 through 2008 to carry out the purposes of this section.

SA 2918. Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. MURRAY, Mr. BINGAMAN, Mr. BREAUX, Mr. SMITH of Oregon, Mr. DOMENICI, Mrs. HUTCHISON, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE .—PIPELINE SAFETY

SEC. 01. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the ''Pipeline Safety Improvement Act of 2002''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this title an amendment on repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

Subtitle A—Pipeline Safety Improvement Act of 2002

SEC. 31. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this title, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT–2000–069).

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

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

SEC. 32. NTSB SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in sections 1135 (a) and (b) of title 49, United States Code, available to the public at reasonable cost.

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

SEC. 33. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATION PLAN.—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) REQUIREMENTS.—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the plans to ensure the continuation of a safe operation. The Secretary may establish minimum standards for pipeline personnel training and evaluation, which may include written examination, oral examination, work performance history review, observation during performance on the job, on the job training, simulations, or other forms of assessment.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall submit a report to the Congress evaluating the effectiveness of operator qualification and training efforts, including—

(A) actions taken by inspectors;

(B) recommendations made by inspectors for changes to operator qualification and training programs; and

(C) industry and employee qualification responses to those actions and recommendations.

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

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

SEC. 34. PIPELINE INTEGRITY INSPECTION PROGRAM

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

''(c) INTEGRITY MANAGEMENT.—

''(1) GENERAL REQUIREMENT.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator's pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those area. The regulations shall be issued no later than one year after the Secretary has issued standards pursuant to subsections (a) and (b) of this section or by December 31, 2003, whichever is sooner.

''(2) STANDARDS FOR PROGRAM.—In promulgating regulations under this section, the Secretary shall require an operator's integrity management plan to be based on risk analysis and each plan shall include, at a minimum—

''(A) periodic assessment of the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods. The assessment period shall be no less than every 5 years unless the Department of Transportation Inspector General, after consultation with the Secretary determines there is not a sufficient capability or it is deemed unnecessary because of more technically appropriate monitoring or creates undue interruption of necessary supply to fulfill the requirements under this paragraph;

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

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

''(3) CRITERIA FOR PROGRAM STANDARDS.—In deciding how frequently the integrity assessment methods carried out under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or previously identified structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, the Secretary may establish a minimum testing requirement for operations of pipelines to conduct internal inspections.

''(4) STATE ROLE.—A State authority that has an agreement in effect with the Secretary under section 60106 is authorized to review and assess an operator's risk analyses and integrity management plans required under this section for interstate pipelines located in that State. The reviewing State authority shall provide the Secretary with a written assessment of the plans, make recommendations, as appropriate, to address safety concerns not adequately addressed in the operator's plans, and submit documentation explaining the State-proposed plan revisions. The Secretary shall carefully consider the State's proposals and work in consultation with the States and operators to address safety concerns.

''(5) MONITORING IMPLEMENTATION.—The Secretary of Transportation shall review the risk analysis and program for integrity management required under this section and provide for continued monitoring of such plans. Not later than 2 years after the implementation of integrity management plans under this section, the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all of the requirements mandated by the regulations described in paragraph (1) to additional areas. The Secretary shall submit the assessment and evaluation to Congress along with any recommendations to improve and expand the utilization of integrity management plans.

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

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

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

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

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

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

SEC. 35. ENFORCEMENT.

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

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

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

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

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

(2) by striking ''is hazardous,'' in subsection (d) and inserting ''is, or would be, hazardous.''.

SEC. 36. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT TO KNOW.

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

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

''(a) PURLIC EDUCATION PROGRAMS.—

''(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

''(2) Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

''(3) The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

''(b) EMERGENCY PREPAREDNESS.—

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

''(2) INFORMATION.—An operator shall, upon request, make available to the State emergency response commissions and local emergency planning committees, and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the information to the public, the information described in section 60102(d), the operator's program for integrity management, and information about implementation of that program. The information about the facility shall also include, at a minimum—

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

''(B) a description of the facility, including pipe diameter, the product or products carried, and the operating pressure;

''(C) with respect to transmission pipeline facilities, maps showing the location of the facility and, when available, any high consequence areas which the pipeline facility traverses or adjoins and abuts;

''(D) a summary description of the integrity measures the operator uses to assure safety and protection for the environment; and

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

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

''(4) PUBLIC ACCESS.—The Secretary shall prescribe requirements for public access, as appropriate, to this information, including a requirement that the information be made available to the public by widely accessible computerized database.

''(c) COMMUNITY RIGHT TO KNOW.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility shall provide

to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility. The map may be provided in electronic form. The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these programs to their activities to promote pipeline safety.

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

''(1) make available to the public—

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

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

''(C) the results of any inspection by the Office of Pipeline Safety or a State regulatory official; and

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

''(2) prescribe requirements for public access, as appropriate, to integrity management program information prepared under this chapter, including requirements that will ensure data accessibility to the greatest extent feasible.''.

(b) SAFETY CONDITION REPORTS.—Section 60102(h)(2) is amended by striking ''authorities.'' and inserting ''officials, including the local emergency responders.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

''60116. Public education, emergency preparedness, community right to know.''.

SEC. 37. PENALTIES.

(a) CIVIL PENALTIES.—Section 60122 is amended—

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

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

(3) by adding at the end of subsection (a)(1) the following: ''The preceding sentence does not apply to judicial enforcement action under section 60120 or 60121.''; and

(4) by striking subsection (b) and inserting the following:

''(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

''(1) the Secretary shall consider—

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

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

''(C) good faith in attempting to comply; and ''(2) the Secretary may consider—

''(A) the economic benefit gained from the violation without any discount because of subsequent damages; and

''(B) other matters that justice requires.''

(b) EXCAVATOR DAMAGE.—Section 60123(d) is amended—

(1) by striking ''knowingly and willfully'';

(2) by inserting ''knowingly and willfully'' before ''engages'' in paragraph (1); and

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

''(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''.

(c) CIVIL ACTIONS.—Section 60120(a)(1) is amended to read as follows:

''(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112 of this chapter, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60122.''.

SEC. 38. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) by striking ''GENERAL AUTHORITY.—'' in subsection (a) and inserting ''AGREEMENTS WITHOUT CERTIFICATION.—'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(3) by inserting after subsection (a) the following:

''(b) AGREEMENTS WITH CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 of this title and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation, or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.

''(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines that—

''(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

''(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

''(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

''(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

''(3) EXISTING AGREEMENTS.—If requested by the State Authority, the Secretary shall authorize a State Authority which had an interstate agreement in effect after January, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

''(A) the State Authority fails to comply with the terms of the agreement;

''(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State Authority; or

''(C) continued participation by the State Authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.''.

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106, as redesignated by subsection (a), is amended to read as follows:

''(e) ENDING AGREEMENTS.—

''(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

''(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

''(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

''(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

''(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give the notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.''.

SEC. 39. IMPROVED DATA AND DATA AVAILABILITY.

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

(b) REPORT OF RELEASES EXCEEDING 5 GALLONS.—Section 60117(b) is amended—

(1) by inserting ''inserting ''(1)'' before ''To'';

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

(3) inserting before the last sentence the following:

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

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

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

(c) PENALTY AUTHORITIES.—(1) Section 60122(a) is amended by striking ''60114(c)'' and inserting ''60117(b)(3)''.

(2) Section 60123(a) is amended by striking ''60114(c),'' and inserting ''60117(b)(3),''.

(d) ESTABLISHMENT OF NATIONAL DEPOSITORY.—Section 60117 is amended by adding at the end the following:

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

SEC. 40. RESEARCH AND DEVELOPMENT.

(a) INNOVATIVE TECHNOLOGY DEVELOPMENT.—

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

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

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

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

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

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

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

(b) PIPELINE SAFETY AND RELIABILITY RESEARCH AND DEVELOPMENT.—

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

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

(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas pipeline issues existing on the date of enactment of this Act.

(2) PURPOSE.—The purpose of the cooperative research program shall be to promote pipeline safety research and development to—

(A) ensure long-term safety, reliability and service life for existing pipelines;

(B) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(C) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(D) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(E) develop improved materials and coatings for use in pipelines;

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

(G) identify underground environments that might lead to shortened service life;

(H) enhance safety in pipeline siting and land use;

(I) minimize the environmental impact of pipelines;

(J) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(K) provide risk assessment tools for optimizing risk mitigation strategies; and

(L) provide highly secure information systems for controlling the operation of pipelines.

(3) AREAS.—In carrying out this subsection, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research development on natural gas, crude oil and petroleum product pipelines for—

(A) early crack defect, and damage detection, including real-time damage monitoring;

(B) automated internal pipeline inspection sensor systems;

(C) land use guidance and set back management along pipeline rights-of-way for communities;

(D) internal corrosion control;

(E) corrosion-resistant coatings;

(F) improved cathodic protection;

(G) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(H) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(I) longer life, high strength, non-corrosive pipelines materials;

(J) assessing the remaining strength of existing pipes;

(K) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative;

(L) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(M) any other areas necessary to ensuring the public safety and protecting the environment.

(4) POINTS OF CONTACT.—

(A) IN GENERAL.—To coordinate and implement the research and development programs and activities authorized under this subsection—

(i) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and

(ii) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.

(B) DUTIES.—

(i) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan under paragraphs (5) and (6).

(ii) The points of contact shall jointly assist in arranging cooperative agreements for research, development and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.

(5) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this subsection. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(6) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the 5-year plan provided for in paragraph (5) is implemented as intended. In carrying out the research, development, and demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(7) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

SEC. 41. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the 5-year research, development, and demonstration program plan under section—40(b)(5). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under that section.

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

SEC. 42. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUIDS.—Section 60125(a) is amended to read as follows:

''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—

''(1) $26,000,000 for fiscal year 2003, of which $20,000,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title; and

''(2) $30,000,000 for each of the fiscal years 2004 and 2005 of which $23,000,000 is to be derived from user fees for fiscal year 2004 and

fiscal year 2005 collection under section 60301 of this title.''.

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

''(c) STATE GRANTS.—Not more than the following amounts may be appropriated to the Secretary to carry out section 60107—

''(1) $17,000,000 for fiscal year 2003, of which $15,000,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title; and

''(2) $20,000,000 for the fiscal years 2004 and 2005 of which $18,000,000 is to be derived from user fees for fiscal year 2004 and fiscal year 2005 collected under section 60301 of this title.''.

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

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

(d) PIPELINE INTEGRITY PROGRAM.—(1) There are authorized to be appropriated to the Secretary of Transportation for carrying out sections 40(b) and 41 of this title $3,000,000, to be derived from user fees under section 60301 of title 49, United States Code, for each of the fiscal years 2003 through 2007.

(2) Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention and mitigation of oil spills under sections —40(b) and —41 of this title for each of the fiscal years 2003 through 2007.

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out sections —40(b) and —41 of this title such sums as may be necessary for each of the fiscal years 2003 through 2007.

SEC. 43. OPERATOR ASSISTANCE IN INVESTIGATIONS.

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

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

(1) by inserting ''(1)'' after ''CORRECTIVE ACTION ORDERS.—''; and

(2) by adding at the end the following:

''(2) If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—

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

''(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section —33 of the Pipeline Safety Improvement Act of 2002 and can safely perform those activities.

''(3) Action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement to the extent it is not inconsistent with the requirements of this section.''.

SEC. 44. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

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

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

''(a) DISCRIMINATION AGAINST PIPELINE EMPLOYEE.—No pipeline operator or contractor or subcontractor of a pipeline may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

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

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

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

''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

''(20 INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (A) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

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

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

''(i) take affirmative action to abate the violation;

''(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing

the complaint upon which the order was issued.

''(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

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

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

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

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

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

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

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline, contractor or subcontractor who, acting without direction from the pipeline contractor or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

''(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for a pipeline.''.

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

''(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by adding at the end the following:

''60129. Protection of employees providing pipeline safety information.''.

SEC. 45. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

SEC. 46. FINES AND PENALTIES.

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

SEC. 47. STUDY OF RIGHTS-OF-WAY.

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining pipeline rights-of-way. The study shall recognize pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

SEC. 48. STUDY OF NATURAL GAS RESERVE.

(a) FINDINGS.—Congress finds that:

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

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

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

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

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

(6) It is also necessary to find solutions for the lack of natural gas reserves that could be used during emergencies.

(b) STUDY BY THE NATIONAL ACADEMY OF SCIENCES.—The Secretary of Energy shall request the National Academy of Sciences to—

(1) conduct a study to—

(A) determine the causes of recent increases in the price of natural gas, including whether the increases have been caused by problems with the supply of natural gas or by problems with the natural gas transmission system;

(B) identify any Federal or State policies that may have contributed to the price increases; and

(C) determine what Federal action would be necessary to improve the reserve supply of natural gas for use in situations of natural gas shortages and price increases, including determining the feasibility and advisability of a Federal strategic natural gas reserve system; and

(2) not later than 60 days after the date of enactment of this Act, submit to Congress a report on the results of the study.

SEC. 49. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES IN NEW ENGLAND

(a) STUDY.—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network. In carrying out the study, the Commission shall consider—

(1) the ability of natural gas pipeline and storage facilities in New England to meet current and projected demand by gas-fired power generation plants and other consumers;

(2) capacity constraints during unusual weather periods;

(3) potential constraint points in regional, interstate, and international pipeline capacity serving New England; and

(4) the quality and efficiency of the Federal environmental review and permitting process for natural gas pipelines.

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

Subtitle B—Pipeline Security Sensitive Information

SEC. 51. MEETING COMMUNITY RIGHT TO KNOW WITHOUT SECURITY RISKS.

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

''(1) WITHHOLDING CERTAIN INFORMATION.—

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

''(2) CONDITIONAL RELEASE.—Notwithstanding paragraph (1), upon the receipt of assurances satisfactory to the Secretary that the information will be handled appropriately, the Secretary may provide information permitted to be withheld under that paragraph—

''(A) to the owner or operator of the affected pipeline system;

''(B) to an officer, employee or agent of a Federal, State, Tribal, or local government, including a volunteer fire department, concerned with carrying out this chapter, with protecting the facilities, with protecting public safety, or with national security issues;

''(C) in an administrative or judicial proceeding brought under this chapter or an administrative or judicial proceeding that addresses terrorist actions or threats of such actions; or

''(D) to such other persons as the Secretary determines necessary to protect public safety and security.

''(3) REPORT TO CONGRESS.—The Secretary shall provide an annual report to the Congress, in appropriate form as determined by the Secretary, containing a summary of determinations made by the Secretary during the preceding year to withhold information from release under paragraph (1).''.

SEC. 52. TECHNICAL ASSISTANCE FOR SECURITY OF PIPELINE FACILITIES.

The Secretary of Transportation may provide technical assistance to an operator of a pipeline facility or to State, Tribal, or local officials to prevent or respond to acts of terrorism that may impact the pipeline facility, including—

(1) actions by the Secretary that support the use of National Guard or State or Federal personnel to provide additional security for a pipeline facility at risk of terrorist attack or in response to such an attack;

(2) use of resources available to the Secretary to develop and implement security measures for a pipeline facility;

(3) identification of security issues with respect to the operation of a pipeline facility; and

(4) the provision of information and guidance on security practices that prevent damage to pipeline facilities from terrorist attacks.

SA 2919. Mr. REID (for Mr. HOLLINGS) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 10, strike lines 7 through 24, and insert the following:

(c) ADMINISTRATION BY THE OFFICE OF ELECTION ADMINISTRATION.—

(1) IN GENERAL.—Not later than January 1, 2004, the Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) and the Director of the National Institute of Standards and Technology, shall promulgate standards revising the voting systems standards issued and maintained by the Director of such Office so that such standards meet the requirements established under subsection (a).

(2) QUADRENNIAL REVIEW.—The Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Director of the National Institute of Standards and Technology, shall review the voting systems standards revised under paragraph (1) no less frequently than once every 4 years.

SA 2920. Mr. REID (for Mr. COCHRAN) proposed an amendment to the bill S. Res. 44, designating March 2002 as ''Arts Education Month''; as follows:

On page 2, lines 4 and 5, strike ''each of March 2001, and March 2002,'' and insert ''March 2002''.

SA 2921. Mr. REID (for Mr. COCHRAN) proposed an amendment to the bill S. Res. 44, designating March 2002 as ''Arts Education Month''; as follows:

Amend the title so as to read: ''Designating March 2002 as 'Arts Education Month'.''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

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

The hearing will take place on Tuesday, February 26, 2002, at 9:00 a.m. in room 366 of the Dirksen Senate Office Building. The purpose of the hearing is to receive testimony on the nomination of Raymond L. Orbach to be Director of the Office of Science, Department of Energy.

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, Attn: Majority Staff, 364 Dirksen Senate Office Building, United States Senate, Washington, D.C. 20510.

For further information, please contact Sam Fowler on 202–224–7571 or Amanda Goldman on 202–224–6836.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, February 26, 2002, at 10 a.m. in room 106 of the Dirksen Senate Building to conduct an oversight hearing on the management of Indian trust funds.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, February 27, 2002, at 2 p.m. in room 106 of the Dirksen Senate Building to conduct a hearing on rulings of the United States Supreme Court affecting tribal governments powers and authorities.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224–2251.

AMENDMENT NO. 2919 TO S. 565

Mr. REID. Madam President, I ask unanimous consent that it be in order to consider amendment No. 2919, that the amendment be agreed to and the motion to reconsider be laid on the table.

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

The amendment (No. 2919) was agreed to, as follows:

(Purpose: To require the Office of Election Administration to consult with the National Institute of Standards and Technology when promulgating or reviewing voting systems standards)

On page 10, strike lines 7 through 24, and insert the following:

(c) ADMINISTRATION BY THE OFFICE OF ELECTION ADMINISTRATION.—

(1) IN GENERAL.—Not later than January 1, 2004, the Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) and the Director of the National Institute of Standards and Technology, shall promulgate standards revising the voting systems standards issued and maintained by the Director of such Office so that such standards meet the requirements established under subsection (a).

(2) QUADRENNIAL REVIEW.—The Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Director of the National Institute of Standards and Technology, shall review the voting systems standards revised under paragraph (1) no less frequently than once every 4 years.

DESIGNATING MARCH 2002 AS ''ARTS EDUCATION MONTH''

Mr. REID. Madam President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 44 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 44) designating each of March 2001, and March 2002, as ''Arts Education Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution be amended with the amendment at the desk and the resolution as amended and the preamble be agreed to; that the amendment to the title be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The amendment (No. 2920) was agreed to, as follows:

(Purpose: To designate March 2002 as ''Arts Education Month'')

On page 2, lines 4 and 5, strike ''each of March 2001, and March 2002,'' and insert ''March 2002''.

The resolution (S. Res. 44), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 44

Whereas the Congressional Recognition for Excellence in Arts Education Act (Public Law 106–533) was approved by the 106th Congress by unanimous consent;

Whereas arts literacy is a fundamental purpose of schooling for all students;

Whereas arts education stimulates, develops and refines many cognitive and creative skills, critical thinking and nimbleness in judgment, creativity and imagination, cooperative decisionmaking, leadership, high-level literacy and communication, and the capacity for problem posing and problem-solving;

Whereas arts education contributes significantly to the creation of flexible, adaptable, and knowledgeable workers who will be needed in the 21st century economy;

Whereas arts education improves teaching and learning;

Whereas when parents and families, artists, arts organizations, businesses, local civic and cultural leaders, and institutions are actively engaged in instructional programs, arts education is more successful;

Whereas effective teachers of the arts should be encouraged to continue to learn

and grow in mastery of their art form as well as in their teaching competence;

Whereas educators, schools, students, and other community members recognize the importance of arts education; and

Whereas arts programs, arts curriculum, and other arts activities in schools across the Nation should be encouraged and publicly recognized: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF ARTS EDUCATION MONTH.

The Senate—

(1) designates each of March 2001, and March 2002, as ''Arts Education Month''; and

(2) encourages schools, students, educators, parents, and other community members to engage in activities designed to—

(A) celebrate the positive impact and public benefits of the arts;

(B) encourage all schools to integrate the arts into the school curriculum;

(C) spotlight the relationship between the arts and student learning;

(D) demonstrate how community involvement in the creation and implementation of arts policies enriches schools;

(E) recognize school administrators and faculty who provide quality arts education to students;

(F) provide professional development opportunities in the arts for teachers;

(G) create opportunities for students to experience the relationship between participation in the arts and developing the life skills necessary for future personal and professional success;

(H) increase, encourage, and ensure comprehensive, sequential arts learning for all students;

(I) honor individual, class, and student group achievement in the arts; and

(J) increase awareness and accessibility to live performances, and original works of art.

The amendment to the title (No. 2921) was agreed to, as follows:

Amend the title so as to read: ''Designating March 2002 as 'Arts Education Month'.''.

ORDERS FOR MONDAY, FEBRUARY 25, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn under the provisions of S. Con. Res. 97 until the hour of 12 noon, Monday, February 25; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and Senator CORZINE be recognized to read President Washington's Farewell Address; that following the address there be a period of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each; further, that at 2 p.m. the Senate resume consideration of the election reform bill.

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

AUTHORITY FOR COMMITTEES TO REPORT

Mr. REID. Madam President, I ask unanimous consent, notwithstanding the recess or adjournment of the Senate, that Senate committees may report Legislative and Executive Calendar business on Wednesday, February 20, from 10 a.m. to 12 noon.

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

ORDER FOR THE RECORD TO REMAIN OPEN UNTIL 2 P.M.

Mr. REID. Madam President, I ask unanimous consent the RECORD remain open today until 2 p.m. for the introduction of legislation and the submission of statements.

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

APPOINTMENT OF CONFEREES—H.R. 2646

The PRESIDING OFFICER. The Chair has the authority to appoint the conferees on H.R. 2646.

The Presiding Officer appointed Mr. HARKIN, Mr. LEAHY, Mr. CONRAD, Mr. DASCHLE, Mr. LUGAR, Mr. HELMS, and Mr. COCHRAN conferees on the part of the Senate.

PROGRAM

Mr. REID. Madam President, there will be no rollcall votes on Monday, February 25. The next rollcall vote will occur on Tuesday, February 26, at 10 a.m.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 25, 2002

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:46 p.m., adjourned until Monday, February 25, 2002, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate February 15, 2002:

DEPARTMENT OF STATE

RICHARD MONROE MILES, OF SOUTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GEORGIA.

PETER TERPELUK, JR., OF PENNSYLVANIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DON V. COGMAN, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006, VICE PATRICK DAVIDSON, TERM EXPIRED.

KATHARINE DEWITT, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006, VICE WILLIAM P. FOSTER, RESIGNED.

DAVID GELERNTER, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006, VICE HSIN-MING FUNG.

TERESA LOZANO LONG, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006, VICE TERRY EVANS, TERM EXPIRED.

MARIBETH MCGINLEY, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006, VICE RONNIE FEUERSTEIN HEYMAN, TERM EXPIRED.

AMY APFEL KASS, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004, VICE MARY D. HUBBARD.

ANDREW LADIS, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE VICKI L. RUIZ.

WRIGHT L. LASSITER, JR., OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE NINA M. ARCHABAL.

JAMES R. STONER, JR., OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE BETTY G. BENGSTON.

DEPARTMENT OF JUSTICE

GREGORY ALLYN FOREST, OF NORTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE WALTER BAKER EDMINSTEN, TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DAVID M BUTLER, 0000
DAVID S RILEY, 0000
DAVID M SHIPPERT, 0000
STANLEY D SMITH, 0000
DONALD P PREAU, 0000
JAMES J COREY, 0000
RONALD L DAVIS, 0000
WILLIAM D HUSTON, 0000
STEVEN E DAY, 0000
KENNETH R HARRISON, 0000
EDWARD A HLUDZENSKI, 0000
ROBERT D FARRINGER, 0000
TIMOTHY J SPANGLER, 0000
ROBERT C WEIL, 0000
ROBERT M GAUVIN, 0000
LARRY C MERCIER, 0000
STEVEN E OHMS, 0000
JOHN D FILIPOWICZ, 0000
KAREN L TAYLOR, 0000
JOHN S LEYERLE, 0000

THE FOLLOWING NAMED OFFICERS TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211:

To be ensign

REBECCA L ALBERT, 0000
CRAIG H ALLEN JR., 0000
SAMUEL L J ALVORD, 0000
NIKOLAS B ANDERSON, 0000
BRAD J ANDERSON, 0000
KARL M ANFORTH, 0000
CASSANDRA E ARAMBURU, 0000
NEAL E ARMSTRONG, 0000
RICHARD P ARMSTRONG, 0000
JOHN P BACKUS, 0000
MATTHEW S BAKER, 0000
BRIAN K BARTLETT, 0000
MALCOLM D BELT, 0000
EMILY L BERGMAN, 0000
DOROTHY J BIENHOFF, 0000
KATHERINE D BITEL, 0000
CHRISTOPHER W BLOMSHIELD, 0000
JOHN D BOESCH, 0000
PETER F BOSMA, 0000
MATTHEW J BRECKEL, 0000
CHRISTOPHER B BRUNO, 0000
ADAM G BUFFINGTON, 0000
SARAH J BUNDY, 0000
JONATHAN W BURBY, 0000
JOSHUA D BURCH, 0000
REBECCA M BURDICK, 0000
ROBERT L BYRD II, 0000
SAM CHEUNG, 0000
SCOTT P CIEPLIK, 0000
EMILE F COCHET III, 0000
ROBERT A COLE, 0000
MATTHEW J COLEBOURN, 0000
BRIAN T CONLEY, 0000
MOLLY J CONLON, 0000
JAMES T CORBETT, 0000
CHRISTOPHER A CULPEPPER, 0000
CHRISTOPHER J DAVIS, 0000
BIEN J DECENA JR., 0000
AARON W F DELANO-JOHNS, 0000
SHAWN B DEWEESE, 0000
RACHEL S DIGAUDIO, 0000
TRAVIS M EMGE, 0000
JOSHUA M EMPEN, 0000
BRENDAN M EVANS, 0000
PHILIP J FERRANTO, 0000
JESSICA L FONTAINE, 0000
CHARLENE S FORGUE, 0000
THOMAS P GADOMSKI II, 0000
KELLEE M GAFFEY, 0000
HEATHER E GATES, 0000
BRENDAN T GAVIN, 0000
MATTHEW D GEORGE, 0000
GLENN H GOETCHIUS, 0000
BENJAMIN F GOFF JR., 0000
MELISSA Y GRETEN, 0000
WINWARD P GRIFFIN, 0000
MICHAEL C GRIS II, 0000
MATTHEW C GROVES, 0000
JACOB L GUSTAFSON, 0000
JASON W HAAG, 0000
PATRICIA L HALEY, 0000
ERIK D HALVORSON, 0000
TREVOR M HARE, 0000
BRENDAN J HARRIS, 0000
LEE J HARTSHORN, 0000
KEVIN M HASSELMAN, 0000
JASON M HEERING, 0000

AMBER L HENDERSON, 0000
CHRISTIAN J HERNAEZ, 0000
LINDY M HINDS, 0000
ANYA F HUGHES, 0000
PETER J IGOE, 0000
JENNIFER M IMBRES, 0000
MARCUS A IVERY, 0000
VINCENT J JANSEN, 0000
BRIAN R JEFFERY, 0000
ORION N JONES, 0000
VIGNETTE A KALTSAS, 0000
DARAIN S KAWAMOTO, 0000
BENJAMIN R KEFFER, 0000
LYLE E KESSLER, 0000
CARRIE A KILROY, 0000
ELIZABETH A KLCO, 0000
NATASHA A C KLEIN, 0000
MATTHEW M KONON, 0000
WILLIAM J KOTOWSKI, 0000
ADAM J KOZIATEK, 0000
GABRIEL J L KRUG, 0000
REGAN M LACHUT, 0000
ERIC C LARSEN, 0000
CHRISTOPHER W LAVIN, 0000
HERBERT C LAW, 0000
TIMOTHY J LEE, 0000
LANCE D LEONE, 0000
KAREN R LEYDET, 0000
ERIN R LONG, 0000
JOHN R LUFF, 0000
AARON J MADER, 0000
THOMAS D MANSELL, 0000
HAROLD L MCCARTER, 0000
JAMES F MCCORMACK, 0000
DAVID M MCCOWN, 0000
COLLEEN S MCCUSKER, 0000
JAMES C MCFERRIAN V, 0000
JOHN B MCWHITE, 0000
COREY A MEEKS, 0000
JONATHAN D MILLER, 0000
JAMES K MORROW JR., 0000
LEWIS H MOTION, 0000
CHRISTOPHER D NOLAN, 0000
BENJAMIN J NORRIS, 0000
STEPHEN P NUTTING, 0000
ANNE E O'CONNELL, 0000
CHRISTOPHER R O'NEIL, 0000
JEFFREY P OWENS, 0000
HOON PARK, 0000
CHRISTOPHER R PARRISH, 0000
ANDREW L PATE, 0000
RACHEL S PELLEGRINO, 0000
SETH J PENNINGTON, 0000
JAMES V PISCITELLI, 0000
MARIA L ROERICK, 0000
JOSHUA D ROSE, 0000
STACEY L ROSICK, 0000
NATHAN L RUMSEY, 0000
JENNIFER M RUNION, 0000
SARAH M W SALAZAR, 0000
KRISTIE L SALZMANN, 0000
TERESA A SANDOVAL, 0000
PAUL W SCHURKE, 0000
GINO S SCIORTINO JR., 0000
CARRIE A SEAY, 0000
KEVIN R SHMIHLUK, 0000
JAKE M SMITH, 0000
SCOTT R SMITH, 0000
JOHN A SOUDERS V, 0000
ARTHUR B SOULE IV, 0000
MEGHAN K STARK, 0000
LAURA K STURM, 0000
PATRICK M SULLIVAN, 0000
NATHAN B SWARDSON, 0000
PAIGE A SWITZER, 0000
ERIC F TAQUECHEL, 0000
VINCE Z TAYLOR, 0000
TIFFANY L THOMPSON, 0000
LISA M TINKER, 0000
ELIZABETH A TONOVITZ, 0000
DAVID A TORRES, 0000
ROBERTO N TREVINO, 0000
LAUREN L TROCCHIO, 0000
JARED S TRUSZ, 0000
SUSAN E VAN DER VEER, 0000
LINNEA R VAN GANSBEK, 0000
MICHAEL O VEGA, 0000
ANDREA L WACHOWIAK, 0000
JOHN E WALSH IV, 0000
JEREMY A WEISS, 0000
THOMAS L WHITE, 0000
MATTHIAS H WHOLLEY, 0000
TODD M WIMMER, 0000
MICHAEL D WOLFE, 0000
NICHOLAS S WORST, 0000
KATHRYN L WUNDERLICH, 0000
KYLE S YOUNG, 0000
ALLISON L ZUMWALT, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT DAMON BISHOP JR., 0000
BRIGADIER GENERAL ROBERT W. CHEDISTER, 0000
BRIGADIER GENERAL TRUDY H. CLARK, 0000
BRIGADIER GENERAL RICHARD L. COMER, 0000
BRIGADIER GENERAL CRAIG R. COONING, 0000
BRIGADIER GENERAL SCOTT S. CUSTER, 0000
BRIGADIER GENERAL FELIX DUPRE, 0000
BRIGADIER GENERAL EDWARD R. ELLIS, 0000
BRIGADIER GENERAL LEONARD D. FOX, 0000
BRIGADIER GENERAL TERRY L. GABRESKI, 0000
BRIGADIER GENERAL MICHAEL C. GOULD, 0000
BRIGADIER GENERAL JONATHAN S. GRATION, 0000
BRIGADIER GENERAL WILLIAM W. HODGES, 0000
BRIGADIER GENERAL DONALD J. HOFFMAN, 0000
BRIGADIER GENERAL JOHN L. HUDSON, 0000
BRIGADIER GENERAL CLAUDE R. KEHLER, 0000
BRIGADIER GENERAL CHRISTOPHER A. KELLY, 0000
BRIGADIER GENERAL PAUL J. LEBRAS, 0000
BRIGADIER GENERAL JOHN W. ROSA JR., 0000
BRIGADIER GENERAL RONALD F. SAMS, 0000
BRIGADIER GENERAL JOSEPH P. STEIN, 0000
BRIGADIER GENERAL KEVIN J. SULLIVAN, 0000
BRIGADIER GENERAL MARK A. WELSH III, 0000
BRIGADIER GENERAL STEPHEN G. WOOD, 0000

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 general

LT. GEN. LANCE W. LORD, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

MARIAN AMREIN, 0000 JA
MARGARET B BAINES, 0000 JA
JOHN M BICKERS, 0000 JA
COREY L BRADLEY, 0000 JA
GARY R BROCK, 0000 JA
DAVID C CALDWELL, 0000 JA
HOLLY O COOK, 0000 JA
BRIAN C CORNEILSON, 0000 JA
MARK D DUPONT, 0000 JA
KAREN V FAIR, 0000 JA
TIMOTHY GRAMMEL, 0000 JA
RICHARD C GROSS, 0000 JA
JONATHAN C GUDEN, 0000 JA
VICTOR M HANSEN, 0000 JA
DAVID P HARNEY, 0000 JA
JODY M HEHR, 0000 JA
MICHAEL J HENRY, 0000 JA
THOMAS L HONG, 0000 JA
WALTER M HUDSON, 0000 JA
JOHN S IRGENS, 0000 JA
MICHAEL D ISACCO JR., 0000 JA
JAMES F MCCONNON, 0000 JA
HARROLD J MCCRACKEN, 0000 JA
SHEILA E MCDONALD, 0000 JA
MICHAEL R MCWRIGHT, 0000 JA
AMISI B MUBANGU, 0000 JA
MICHAEL E MULLIGAN, 0000 JA
JEFFERY R NANCE, 0000 JA
DAVID NEWSOME JR., 0000 JA
JOHN P PATRICK, 0000 JA
DON F POLLACK, 0000 JA
RICHARD W ROUSSEAU, 0000 JA
RANDALL J VANCE, 0000 JA
CHARLES S WALTERS, 0000 JA
STEVEN M WALTERS, 0000 JA